

**TOWN OF WINCHESTER
INLAND WETLANDS & WATERCOURSES COMMISSION
Town of Winchester Town Hall, 338 Main Street
P. Francis Hicks Room – 2nd Floor
November 17, 2021 – 7:00PM
Regular Meeting Minutes**

1. CALL TO ORDER:

Chairman Steve Molinelli called the meeting to order at 7:00PM.

2. ROLL CALL:

Roll call was completed by Mr. Molinelli. Present at the meeting in addition to him were Andrea Krawiecki, Jeff Lippincott, Leeane Marvin, Mary Ann Marino, and Gary Paganelli as well as Wetlands Agent Michael Stankov.

Russ Davenport, Jackie Mulvey, and Kurt Timmeney were absent excused.

3. APPROVAL OF MINUTES – OCTOBER 20, 2021 REGULAR MEETING:

MOTION: Ms. Marino, Ms. Krawiecki second, to approve the September 22, 2021 minutes; Motion approved with Mr. Molinelli, Ms. Krawiecki, Mr. Lippincott, Ms. Marino, and Mr. Paganelli voting in favor while Ms. Marvin abstained.

4. AGENDA REVIEW:

No changes were made to the agenda.

5. PUBLIC HEARINGS:

A. IWWC#21-09 Applicant/Owner: Michael Goncalves and Desiree Goncalves Location: 524 East Wakefield Boulevard Proposal: Install Dock and Boat Lift.

Michael Goncalves, accompanied by his wife Desiree Goncalves, appeared before the Commission regarding this application. Mr. Goncalves distributed a series of aerial photographs. He reminded the commission that the dock he was requesting was off to one side so as to keep it out of the way for other people. He shared photographs from the perspective of the right of way, noting that to access the dock from the ROW, access would need to be gained by going over the rocks in the stream.

Mr. Molinelli questioned the length of the proposed dock. It was noted that the original request was 6'x40'. Mr. Goncalves indicated that he would likely be looking for a 4'x40'. He noted that the property was a privately owned property. Mr. Molinelli questioned which side of the dock would a boat likely be moored. Mr. Goncalves indicated that it would likely be on the side of his other property. Ms. Krawiecki questioned whether the proposal was eliminating the boat lift request. Mr. Goncalves confirmed, noting that it was for just the dock. Ms. Krawiecki questioned whether the dock was removeable. Mr. Goncalves confirmed.

Ms. Marino questioned whether the Unity Beach frontage was 27' wide. Mr. Goncalves indicated that it was a 41' tie line but it was 36' practically. Mr. Lippincott questioned how the proposed dock would affect the boat that is already moored in this area. Mr. Molinelli noted that there are two buoys at this property already with one of them being permitted from twenty to thirty years ago and questioned whether a boat is typically moored in front of the proposed dock location. Mr. Goncalves indicated that would be impossible because the proposed dock location is not only within the littoral boundaries but is right up against it. Mr. Lippincott questioned which property the one legal buoy went with. Mr. Molinelli referenced a memorandum from

Wetlands Agent Michael Stankov that indicated the buoy went with 521 East Wakefield Boulevard. Mr. Goncalves noted that while he was not looking to address that buoy now, to apply for a wetlands permit, an applicant needs the owner's signature and the permit application in that matter did not contain one.

While acknowledging a legal opinion from the town's attorney Kevin Nelligan intended to settle the matter of title on the subject property, Ms. Marino noted the submission of conflicting legal opinions. Mr. Molinelli advised Ms. Marino that this commission ought to accept the town's attorney's legal opinion on ownership. He noted that an independent title search had been done by the Town.

Mr. Stankov reviewed his memorandum, noting that the buoy utilized by the owners of 523 East Wakefield Boulevard had never had an application that had come before this commission. He noted that there was an application that was reviewed by the commission for the owners of 521 East Wakefield Boulevard. Mr. Stankov referred to the standard twelve conditions of approvals, noting that one must be a property owner or have the authority of the property owner, in order to file an application. He noted that when he had examined the files for 521 East Wakefield Boulevard, he did not find that the application had ever been signed off by the owner.

Mr. Molinelli noted that he had been at the site the date of the meeting and it appeared that the buoys were stacked with one directly in front of the other. He questioned whether or not the applicant was amenable to moving the proposed location of the dock further over. Mr. Goncalves indicated that he was not, explaining that the dock would then not be on the property that is subject to this application. It was further noted that he was not entitled to two docks on the other property if it did not meet the minimum 150' width requirement for a second dock.

Mr. Stankov noted that an email from Attorney Nelligan, dated October 27, 2021, had been submitted for the record. Additionally, he noted that he had submitted staff comments, too, along with an email from the Northwest Conservation District confirming that the aluminum dock legs would have no negative affect to the bed of the stream in this area.

The hearing was open to the public.

Brian Ward and Vicki Ward of 521 East Wakefield Boulevard spoke about their own buoy, opining that if the proposed dock was to be approved it would likely block the buoy of their neighbor at 523 East Wakefield Boulevard. Ms. Ward questioned whether the commission had been provided with the copies that she had submitted for them. Staff confirmed that the Wards documents had been included in the weekend packages made available to the commission ahead of this meeting. Mr. Ward reported their attorney had indicated that there are only a few attorneys within the state that are qualified to provide a Certificate of Title.

Keith Becker of 523 East Wakefield Boulevard distributed pictures of the subject property. He read aloud notes on a registration for his property prepared by former Town Planner Steve Sadlowski. He described how this registration came to be signed. Referring to his photographs, Mr. Becker described how the proposed dock would hinder his ability to access his boat/buoy.

Mr. Goncalves noted that even with a buoy moored in the middle of the frontage, the swing of the boat would likely encroach the littoral boundaries. He opined this property did not support buoys. Mr. Goncalves referenced the letter from Bridget Donovan of Unity Place, noting that she has access to the right of way but has been chased off the property by Mr. Becker.

Beth LaChance of 534 Wheelers Point shared her concern with the length of the dock, not for herself but for how it might affect other neighbors of 522 East Wakefield Boulevard.

MOTION: Mr. Molinelli, Mr. Lippincott second, to close the public hearing; unanimously approved.

6. OLD BUSINESS:

A. IWWC#21-09 Applicant/Owner: Michael Goncalves and Desiree Goncalves Location: 524 East Wakefield Boulevard Proposal: Install Dock and Boat Lift.

Mr. Molinelli reminded the commission that the proposal had been modified to a 4'x40' dock abutting the wall of the applicant's other property. Ms. Marino reviewed Section 10.2.e. of the regulations, noting that it was incumbent upon this commission to look for "...*any feasible and prudent alternative...*" and "...*the character and degree of injury to and interference with safety, health, or reasonable use of property which is caused or threatened by activity...*". She also referenced sections of the Dock and Mooring Ordinance regarding structures and shared her concerns with the application, notably that there were conflicting letters from Attorney Nelligan. Mr. Stankov clarified that the first communication from Attorney Nelligan only communicated that the Town was not obligated to render an opinion on title but did not indicate that the Town was unable to do so. He cautioned the commission from ignoring the opinion of the town's legal counsel. Mr. Lippincott noted that he agreed the commission should not ignore the finding regarding the applicant's ownership of the property but indicated that he did not think the applicant should impede access to the persons have rights to the parcel. Ms. Marino shared her concerns with safety. Mr. Molinelli shared his concerns with safety and traffic and cited the judgment from 2015. He recalled language from the settlement that neither Mr. Becker nor the previous owner of the subject property could do anything that might interfere with the others ability to use that property for launching a boat, a canoe, or a jetski.

Ms. Marvin recused herself from any intended action on this application as she was new to the commission and not had the opportunity to review the complete record.

MOTION: Mr. Molinelli, Mr. Paganelli second, to approve Application IWWC#21-09 Applicant/Owner: Michael Goncalves and Desiree Goncalves Location: 524 East Wakefield Boulevard Proposal: Install 4'x40' Dock; motion failed with Mr. Molinelli, Ms. Krawiecki, Mr. Lippincott, Ms. Marino, and Mr. Paganelli unanimously opposed.

The commission recessed at 8:27PM and reconvened at 8:34PM.

B. IWWC#21-30 (Modification of #20-50) Applicant/Owner: Normand J. Laliberte, Jr. Location: 416 West Wakefield Boulevard Proposal: Add Retaining Walls and Paver Pathway.

Mr. Stankov reported that there has been no communication received from Mr. Laliberte. He noted that the applicant has until January, 2022 as the application was filed under the governor's emergency order. However, he reminded the Commission that this is the second month that there has been no contact with the applicant.

MOTION: Mr. Molinelli, Ms. Marino second, to continue Application IWWC#21-30 (Modification of #20-50) Applicant/Owner: Normand J. Laliberte, Jr. Location: 416 West Wakefield Boulevard Proposal: Add Retaining Walls and Paver Pathway to the next regular meeting; unanimously approved.

C. IWWC#21-37 (Modification of IWWC#20-66) Applicant/Owner: James Brandolini and Lynn Brandolini Location: 272 Perch Rock Trail Proposal: Enlarge Deck; Modify Lake Wall with Granite Pieces.

Mr. Stankov reminded the commission that an independent engineer review had been requested on this application and the applicants had requested a continuance through December.

MOTION: Ms. Marino, Ms. Krawiecki second, to continue Application IWWC#21-37 (Modification of IWWC#20-66) Applicant/Owner: James Brandolini and Lynn Brandolini Location: 272 Perch Rock Trail Proposal: Enlarge Deck; Modify Lake Wall with Granite Pieces to the December regular meeting; unanimously approved.

D. IWWC#21-42 Applicant: Jeffrey Rondini Owner: Steven Heffer and Heena Sultan Location: 211 West Wakefield Boulevard Proposal: Tree Removal.

Staff reported the applicant had emailed, formally requesting the application be continued.

Having looked at the application, Ms. Marvin questioned whether inquiry could be made to the applicant about the species of the trees, how old the trees are, what condition are the trees, and why are the applicant/owners looking to remove the trees. It was noted that these questions would be forwarded on to the applicant so that he can have that information readily available at the next meeting.

MOTION: Mr. Molinelli, Mr. Lippincott second, to continue, at the request of the applicant, Application IWWC#21-42 Applicant: Jeffrey Rondini Owner: Steven Heffer and Heena Sultan Location: 211 West Wakefield Boulevard Proposal: Tree Removal to the December regular meeting; unanimously approved.

E. IWWC#21-44 Applicant: Bryan Dwyer Owner: Christopher Chinnock Location: 242 Perch Rock Trail Proposal: Rebuild Lakewall.

Bryan Dwyer, accompanied by his client Christopher Chinnock, appeared before the commission regarding this application. Mr. Molinelli recalled that conversation was supposed to occur with Department of Public Works Director Jim Rollins regarding whether the Town would be supporting the drainage pipe repair work on the property. Mr. Dwyer confirmed, noting that he had consulted with Mr. Rollins who indicated the work should take only a couple of days to complete. Mr. Stankov noted that his most recent conversation with Mr. Rollins was with respect to an easement from the property owner to the town.

Discussion ensued regarding the easement. It was agreed that an opinion would be sought from Attorney Nelligan regarding what form of an easement, if any, should be secured for this work. The commission considered whether the lakewall work could be approved with Mr. Dwyer leaving a sleeve for the drainage pipe. Mr. Paganelli suggested that a surveyor plot out the lakewall and an as-built survey be submitted following the lake wall completion. The consensus of the commission was that the lakewall could be approved with a condition that the Town restore the drainage pipe so that it functions properly before the applicant begins his work on the wall.

MOTION: Ms. Marino, Mr. Paganelli second, to approve Application IWWC#21-44 Applicant: Bryan Dwyer Owner: Christopher Chinnock Location: 242 Perch Rock Trail Proposal: Rebuild Lakewall, subject to the standard 1-12 conditions, and the following additional condition:
13. Repair work cannot begin until the Department of Public Works has repaired the drainage pipe that runs through the property.

14. The lakewall is spot located by a licensed land surveyor.
15. As-builts of finished lakewall to be submitted following rebuild.
16. Cash erosion and sedimentation bond totaling \$1000 to be submitted to the Inland Wetlands Office prior to the commencement of work;

unanimously approved.

F. IWWC#21-45 Applicant: Michael Cardello Owner: Jeffrey Muller and Melissa Muller Location: 248 Perch Rock Trail Proposal: Demo Existing Home; Reconstruct New Single-Family Residence on Same Footprint.

Michael Cardello appeared before the commission regarding this application. Mr. Cardello reviewed a site plan prepared by Professional Engineer Jason Dismukes. He reminded the commission that there had been some question about the planned discharge point for the footing drains. He explained that the house elevation is being raised by two feet, with the footing drain discharging to a raingarden.

Prior to construction, Mr. Cardello noted that haybales will be installed along the water's edge from property line to property line. Additionally, silt fence will be installed around the perimeter of the yard, according to Mr. Cardello. Mr. Cardello noted that the pathways and parking areas will be removed followed by the demolition of the house and construction of a new raingarden. He indicated that all of the material will be removed from the site and new material will be brought back on to the site. Mr. Cardello confirmed that there would be no temporary stockpile at the property. He reviewed the rest of the sequence plan for the construction of the new home.

Mr. Lippincott questioned whether the driveway would be replaced with a pervious driveway. Mr. Cardello indicated that it would not. Mr. Lippincott questioned whether there has been any consideration to reducing the impervious surface coverage, noting that the existing conditions include 38.5% impervious with a planned reduction to 37.4%. Mr. Cardello indicated that he was unsure, noting that Mr. Dismukes had been dealing with the owners directly. Ms. Marino explained that it is typically incumbent upon this commission to request or seek an increase in pervious surfaces. Mr. Molinelli questioned the topography at this site. Mr. Cardello noted that at the road the elevation is 890' with the lake level being at 883', noting the location of the existing retaining wall. Staff questioned the proposed contours on the southerly side of the property and whether the water might sheet flow toward the neighbor's property. Ms. Marvin questioned whether there might be any consideration to native perennials in that that area. Mr. Molinelli questioned whether the properties on either side of the subject parcel have the same topography. Mr. Paganelli questioned the plan for the roof leaders. Mr. Cardello noted that the downspouts will be fed to the raingarden.

Referring to the comments/questions of Mr. Davenport from the October meeting, Mr. Molinelli questioned the pipes discharging water into the lake, including a sumpump. Mr. Cardello indicated the sumpump was likely because the house did not have adequate footing drains. Mr. Cardello indicated that this would be handled through the new construction. Ms. Marino questioned whether there was a basement. Mr. Cardello noted that there was an existing partial basement but that the plans included a full walkout basement. He noted the lot was being regraded.

Mr. Molinelli questioned whether an independent engineering review was necessary. It was suggested that determination could be delayed until Mr. Dismukes has an opportunity to answer questions of the commission. Mr. Lippincott questioned the timeframe for construction to begin. Mr. Cardello indicated the proposal still needed to gain zoning approval but that it will likely start

in the spring. Ms. Marvin questioned whether a vegetative buffer had been considered and whether the raingarden was sized appropriately.

MOTION: Ms. Marino, Mr. Paganelli second, to continue Application IWWC#21-45 Applicant: Michael Cardello Owner: Jeffrey Muller and Melissa Muller Location: 248 Perch Rock Trail Proposal: Demo Existing Home; Reconstruct New Single-Family Residence on Same Footprint to the December 17, 2021 regular meeting; unanimously approved.

G. IWWC#21-46 Applicant/Owner: Affordable Family Housing, LLC Location: North Main Street, Map 017/Block 150/Lot 038A Proposal: Driveway.

As a public hearing had been requested for this application, it was noted that no discussion would occur with respect to the application but that an update would be provided under Warnings/Violations.

MOTION: Ms. Marino, Mr. Paganelli second, to continue Application IWWC#21-46 Applicant/Owner: Affordable Family Housing, LLC Location: North Main Street, Map 017/Block 150/Lot 038A Proposal: Driveway to the December 17, 2021 regular meeting; unanimously approved.

8. NEW BUSINESS:

None.

9. AGENT ACTIONS:

A. Determinations.

No determinations were reported.

B. Warnings/Violations.

The agenda was modified to take up the discussion on the North Main Street violation (Map 017/Block 150/Lot 038A) ahead of the 215 West Wakefield Boulevard violation.

i. North Main Street (Map 017/Block 150/Lot 038A).

Mr. Stankov reminded the commission that an application had followed a *Cease and Desist* Order and that at the October meeting, the commission had reminded the property owner that no further work should be undertaken but for erosion controls. He advised the commission that during an inspection on October 28, 2021, a contractor was still performing work. A request had been made to Attorney Nelligan to file for an injunction, according to Mr. Stankov. He noted that injunction was pending and had questioned whether the public hearing should begin while it was. It was agreed that Attorney Nelligan would be consulted regarding whether the public hearing should be noticed in the newspaper and be opened with an injunction pending.

ii. Parcel opposite 215 West Wakefield Boulevard (Preusse)

Mr. Stankov reported that nothing has been happening on this property. Ms. Marino questioned whether the conditions were deteriorating at all. Mr. Stankov indicated that from what he could tell, he did not believe so from where he could see. He noted that the property owners are aware of what they need to do, which includes seeking approvals from the Town.

Mr. Stankov confirmed that he would consult with the town manager to question the progress of this matter before the Board of Selectmen.

iii. 308 East Wakefield Boulevard

Mr. Stankov reported this property owner has retained Professional Engineer David Battista who is projecting an application and plans will be ready by Christmas.

iv. 713 East Wakefield Boulevard

Mr. Stankov reminded the commission that this property was cited for clearing of trees, including some of which might have been on town property. The property owners had communicated that a survey would likely be completed by October, according to Mr. Stankov. He indicated that he had recently sent a communication to them but had not yet received a reply. Mr. Stankov noted that he could send a letter on December 1st, advising the possibility of fines. Mr. Molinelli indicated that there needs to be follow-up with violations.

The consensus of the commission was that the levying of fines should occur if there is not compliance by December 15th on the outstanding violations.

v. West Wakefield Boulevard (Connole)

Mr. Stankov noted that the property owner had been working on a title search and the boatlift had been taken out of the water. The dock has not yet been resolved pending the ownership of the property. Mr. Stankov agreed to obtain the name of the attorney undertaking the title search and confirm with the individual a projected delivery date.

10. COMMUNICATIONS AND BILLS:

No communications and/or bills were discussed.

11. OTHER BUSINESS:

A. Report from Department of Public Works Liaisons – Russ Davenport and Jeff Lippincott.

Mr. Lippincott confirmed that the catch basins have been being maintained. Mr. Molinelli requested that Mr. Davenport question Mr. Rollins about what is being spread on the roads around Highland Lake.

B. Report from Highland Lake Watershed Association Liaisons – Jackie Mulvey and Mary Ann Marino.

No business discussed but it was noted that the commission had been provided with a copy of the Highland Lake 2020 Water Quality Report and Long-Term Data Assessment as prepared by Northeast Aquatic Research.

12. ADJOURNMENT:

MOTION: Ms. Marino, Mr. Lippincott second, to adjourn at 9:49PM; unanimously approved.

Respectfully submitted,
Pamela A. Colombie
Recording Secretary