



TOWN OF WINCHESTER
INLAND WETLANDS & WATERCOURSES COMMISSION
Town of Winchester Town Hall, 338 Main Street
P. Francis Hicks Room – 2nd Floor
January 18, 2017 – 7:00PM
Regular Meeting Minutes

1. CALL TO ORDER:

Chairman Ric Nalette called the meeting to order at 7:00PM.

2. ROLL CALL:

Roll call was completed by Mr. Nalette. Present at the meeting in addition to Mr. Nalette were: Ms. Jackie Mulvey, Ms. Loretta Tremblay, Mr. Gene Berlinski, Mr. Matt Closson, Mr. Bob Haburey, Mr. Stephen Molinelli and Town Planner Steve Sadlowski.

Absent excused was Mr. Chris Kiely.

3. APPROVAL OF MINUTES – DECEMBER 21, 2016:

MOTION: Mr. Berlinski, Ms. Mulvey second, to approve the December 21, 2016 Minutes; Motion passed with Mr. Berlinski, Mr. Closson, Ms. Mulvey, and Mr. Nalette voting aye while Mr. Haburey, Mr. Molinelli and Ms. Tremblay abstained.

4. AGENDA REVIEW:

No changes were made to the Agenda.

5. OLD BUSINESS:

A. Cease and Desist and Restore Order Owner: Stephen P. Chomak Operator: Scott Bachand Location: Tarringford Street Map: 045, Block 158, Lot 008B.

While Mr. Bachand was present for the meeting, Mr. Nalette noted that the Commission hasn't been provided with copies of any drawings or permit application regarding this property. Mr. Sadlowski reported that an application has not yet been submitted. Mr. Bachand reported that the US Army Corp of Engineers had visited the site and found no problem with the activity occurring on the property, specifically the cleaning out of the pond. Mr. Bachand explained that he did not dig a pond and all he had done was maintenance of an existing pond. He noted that those engineers walked the whole property and will return to review the water problem occurring to the back of the property.

Mr. Nalette explained that there is no type of application before them presently. Mr. Bachand questioned whether he definitely needed a permit application to clean spoils out of an existing pond. Mr. Nalette confirmed, explaining that a permit is required for all activity on the property that involves wetlands and that it has been requested of Mr. Bachand since October, 2016. Mr. Bachand opined that the wetlands agent, Mr. Sadlowski, has been misleading and that he is going to wait until after the US Army Corp of Engineers returns, noting that the property has already been engineered and one permit has already been received on it. Mr. Nalette noted that a Modification or Agent Determination could have been had if only Mr. Bachand had sought it prior to commencing the pond work. Mr. Nalette indicated that the Commission is seeking new drawings containing all of the activity that has been done to date along with existing conditions.

MOTION: Mr. Nalette, Mr. Haburey second, to direct Attorney Nelligan to proceed with litigation on this application if an application is not received within the next five business days; unanimously approved.

Prior to the vote on the preceding motion, Mr. Haburey questioned whether the property owner is aware of what is occurring with this property. Mr. Sadlowski confirmed, noting that he has texted him and left voicemails. Mr. Sadlowski

noted that the Town Manager has even reached out to him. Mr. Sadlowski noted that he has not personally spoken with Mr. Chomak. In response to a question from Mr. Bachand regarding why the US Army Corp of Engineers was contacted about this property, Mr. Nalette explained that the Commission sought an outside evaluation. He noted that the feedback was that the work done to the pond appeared to have caused no detriment and did not deem it necessary to follow up with it.

Additional lively discussion ensued. Mr. Molinelli noted that an application definitely needs to be submitted or the matter would need to be turned over for litigation. Mr. Bachand exited the meeting at 7:12PM, thus not present at the time that the vote on the motion occurred.

B. IWWC #16-21 Applicant: Arnold Govain and Doreen Govain Owner: Arnold Govain and Doreen Govain Location: 342 East Wakefield Boulevard Proposal: Demolition of Existing House Per Site Plan, Construct New Single Family House Per Variance Granted.

Mr. Nalette noted that the activity proposed at the site was not deemed as significant at last month's meeting, reminding the Commission that the gutters on the proposed home will be draining into a drywell and not into the lake.

MOTION: Ms. Mulvey, Mr. Berlinski second, to approve Application IWWC #16-21 - Demolition of Existing House Per Site Plan, Construct New Single Family House Per Variance Granted. Based on oral and written testimony: Conditions 1-12 are standard Inland Wetland Commission Conditions and the following additional conditions determined by the Inland Wetlands Commission.

1. The permittee shall notify the Inland Wetlands Enforcement Officer immediately upon the commencement of work and upon its completion.
2. If the authorized activity is not completed within five years from the issuance date of January 18, 2017, said activity shall cease and, if not previously revoked or specifically renewed or extended, this permit shall be null and void. Any request to renew or extend the expiration date of a permit should be filed in accordance with the Inland Wetlands Regulations of the Town of Winchester. Expired permits may not be renewed and the Inland Wetlands Commission may require a new application for regulated activities.
3. All work and all regulated activities conducted pursuant to this authorization shall be consistent with the terms and conditions of this permit. A copy of the permit and plans shall be on site at all times. Any structures, excavation, fill, obstructions, encroachments, or regulated activities not specifically identified and authorized herein shall constitute a violation of this permit and may result in its modification, suspension or revocation.
4. This authorization is not transferable without the written consent of the Inland Wetlands Commission.
5. In evaluating this application, the Inland Wetlands Commission has relied on information provided by the applicant. If such information is subsequently proved to be false, incomplete or misleading, this permit may be modified, suspended or revoked and the permittee may be subject to any other remedies or penalties provided by law.
6. The permittee shall employ the best management practices, consistent with the terms and conditions of this permit to control storm water discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands or watercourses. Permittee will provide a copy of approved plans to contractor which shall stay on site and be available for review or inspection during the duration of work. For information and technical assistance, contact the Wetlands Enforcement Officer. The permittee shall immediately inform the commission of any problems involving the wetlands or watercourses that have developed in the course of, or that are caused by, the authorized work.
7. No equipment or material including without limitation, fill construction materials, or debris, shall be deposited, placed or stored in any wetland or watercourse on or off site unless specifically authorized by this permit.
8. This permit is subject to and does not derogate any rights or powers of the Town of Winchester, conveys no property rights or exclusive privileges, and is subject to all public and private rights, to all applicable federal, state and local laws. In conducting and maintaining any activities authorized herein, the permittee may not cause pollution, impairment, or destruction of the inland wetlands and watercourses of Winchester.
9. If the activity authorized by the inland wetlands permit also involves activity or a project that requires zoning of subdivision approval, special permit, variance, or special exception, no work pursuant to the wetlands permit may begin until such approval is obtained.
10. The permittee shall maintain sediment and erosion controls at the site in such operable conditions as to prevent the pollution of wetlands and watercourses. Said controls are to be inspected by the permittee for deficiencies at least once per week and immediately after rains. The permittee shall correct any such deficiencies within 24 hours of said deficiencies being found. The permittee shall maintain such control measures until all areas of disturbed soils at the site are stabilized.
11. The permittee, contractor and/or owner shall conduct all operations at the site in full compliance with this permit, to the extent provided by law, may be held liable for any violations of the terms and conditions of this permit and are responsible for any violation they may have created.

12. Wetland flagging to stay in place during the construction process. Missing flags to be replaced upon the Wetland Agent's request if required for inspection or enforcement.
13. Cash erosion and sedimentation bond of \$1000 will be submitted to the Inland Wetlands office; Motion passed with Ms. Mulvey, Ms. Tremblay, Mr. Berlinski, Mr. Closson, Mr. Molinelli, Mr. Nalette voting aye while Mr. Haburey abstained.

6. NEW BUSINESS:

None.

7. OTHER BUSINESS:

A. Dock and Mooring Ordinance.

Commissioners reviewed the current Dock and Mooring Ordinance (*Sec. 162 Docks, Swim Floats, Boat Lifts, Walkways, Personal Watercraft Lift/Floats, Mooring Buoys and Markers at Public Bodies of Water Within the Town of Winchester*) as well as a red-lined version of the same, depicting the modifications made after Attorney Kevin Nelligan's legal review of a Subcommittee's 2015 suggestions.

Mr. Sadlowski referred Commissioners to the portion of language contained on Page 2 of 6, #7 New Structure/Object, paragraph a, "...Only authorized docks, walkways, swim floats, boat lifts, personal watercraft lift/floats, mooring buoys and markers may be installed in, on or over a watercourse...". He noted that a literal interpretation would result in an interpretation of this to include outboard motors, swimsuits, and fishing lines. Mr. Sadlowski opined that this language needs tweaking. He explained that initially he thought bubblers might be prohibited through this language but then noted his earlier point. Mr. Nalette explained that the term "installed" might be the key word in the clause. Mr. Nalette noted that the word "temporarily" might need to be included but then noted that even "temporarily" would need to be defined.

Mr. Nalette suggested that the Commission review the red-lined Dock and Mooring Ordinance for an additional month.

The Commission then reviewed proposed language provided to them that could be added to the Dock and Mooring Ordinance to function to prohibit bubblers on lakes in Winchester. It was noted that this was drafted in response to recent complaints from residents of Highland Lake on the use of bubblers and the resulting impacts made to the ice. It was noted that this language has not received a legal review from Attorney Nelligan yet and is pending the Commission's position on such a prohibition. Mr. Nalette reported that Dr. George Knoecklein, the Ad Hoc Water Level Committee Consultant, had opined that bubblers are not good for water quality. Discussion followed with some Commissioners speculating that there are only a half dozen or so bubblers at Highland Lake. Mr. Molinelli noted that he has one, explaining that he had lost his dock that had been on piers previously. He described the use of his bubbler, including putting it on a timer and the utilization of a sign.

Dr. Knoecklein's report was discussed. Notwithstanding the findings of Dr. Knoecklein's report, Mr. Haburey noted that his concern lays with the possibility of injuries arising from bubblers. Mr. Nalette requested that the Commission reflect on the bubbler issue some more as it will be reviewed again next month.

8. AGENT ACTIONS:

A. Determinations.

i. IWWC #17-01 Owner: Gerald S. Traub and Lisa J. Traub Applicant: Gerald Traub Location: 806 West Wakefield Boulevard Proposal: Replace Deteriorated existing steps and deck in kind (same dimensions as existing steps/deck). Also, if necessary, repair existing posts in front of cottage.

Mr. Sadlowski explained that the applicant is replacing the deck on the back of the home and may need to replace some of the sonotubes. Mr. Nalette questioned the distance between the lake and the work. Mr. Sadlowski indicated that it is not very far, only ten to fifteen feet, but noted that the area is very flat. He explained that the work will be done by hand.

MOTION: Ms. Mulvey, Mr. Berlinski second, to approve the agent determination in the matter of IWWC #17-01 Owner: Gerald S. Traub and Lisa J. Traub Applicant: Gerald Traub Location: 806 West Wakefield Boulevard Proposal: Replace Deteriorated existing steps and deck in kind (same dimensions as existing steps/deck). Also, if necessary, repair existing posts in front of cottage; unanimously approved.

B. Warnings/Violations.

None.

9. COMMUNICATIONS AND BILLS:

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Mr. Nalette reported that the Connecticut Bar Association is hosting the "Connecticut Land Use Law for Municipal Land Use Agencies, Boards and Commissions" on March 25, 2017 at Wesleyan University from 8:30AM-4:30PM. He noted that while much of it will pertain to land use, Attorney Mike Zizka will speak on Wetlands Law and Procedure. Mr. Sadlowski reported that the Town will cover the cost for any commissioner that would like to attend. He highly recommended this seminar.

It was noted that Ms. Mulvey and Ms. Tremblay received a Certificate of Completion from Connecticut Department of Energy and Environmental Protection Wetlands Inland Wetlands Management Section.

10. ADJOURN:

MOTION: Mr. Nalette, Mr. Kiely second, **to adjourn at 7:43PM; unanimously approved.**

Respectfully submitted,

Pamela A. Colombie
Recording Clerk