Town of Winchester
INLAND WETLAND & WATERCOURSES COMMISSION
Minutes October 17th, 2012
7:00 PM, P. Francis Hicks Room, 2nd Floor, Town Hall
338 Main Street, Winsted, CT 06098

AMENDED 12/4/12

The meeting was called to order by Vice Chairman Ric Nalette Jr at 7:04 p.m. at 7:04 p.m. The following members answered roll call: Christopher Waring (absent excused) Stephen Molinelli, James Rollins Jr, Robert Haburey Jr., (absent) Christopher Kiely, Sue Peacock (absent excused), Meg Delaney, Jackie Mulvey and Scott Eisenlohr, Inland Wetlands agent.

3. Approval of Minutes 9/19/2012

Motion: by J. Rollins to **approve** minutes as amended for 9/19/2012, Seconded by M. Delaney. Vote: one opposed C. Kiely all others in favor-***Motion carries***

- J. Rollins Jr-page 3 last paragraph addresses another application.
- S. Eisenlohr-will follow up with that.
- J. Rollins Jr-page 4 the Closson application, the elevation of the floor is suppose to be 886.
- R. Nalette Jr-for that same application the vote is recorded, should be one opposed and all others in favor.
- M. Delaney-page 2 the word flaggy can be removed.

4. Agenda Review

- S. Eisenlohr-under new business I would like to add Item 8B
  Applicant: IWC 12-42 Lisa Kriedel Trustee
  Location: 550 West Wakefield Blvd.
  Map: 038, Blk, 115, Lot(s) 001, Zone: HLD
  Violation: Working in regulated area without permits.

5. <u>Old Business</u>

PUBLIC HEARING IWC #12-30 7:00 p.m. Continued

A. Application IWC 12-30
Applicant: Margaret Ziolkowski
Location: 716 W Wakefield Blvd
Map: 038, Blk: 113, Lot 002, Zone: HLD
Proposal: Retaining wall, walkway, relocation of driveway, support wall, bunkers.

Motion: by J. Rollins Jr to continue public hearing, second by C. Kiely. **Vote**: all in favor-***motion carries unanimously***.

- R. Nalette Jr-we held a public hearing last month and came up with a list of additional information we needed including information from Laurel Engineering along with information from another engineer.
- S. Eisenlohr-I have not received it however they are here in the office.
- Can't hear engineer, reviewed list from commission, provided commission with a copy of assessor's card and map.
- S. Eisenlohr-item 3 is required and I need to fax David Cusik, I have not been able to do that however I added it to the conditions in case the commission goes in the direction of approval.
- J. Rollins Jr-was he given the entire application to review or just the plans?
- S. Eisenlohr-I believe he just got the plans.
- R. Nalette Jr-the commission wasn't happy because some of the information we requested was provided including the feasible alternatives. For clarification on closing the public hearing because we are out of time as far as extensions that then gives us another 30 day to make our decision.
- S. Eisenlohr-another 35.
- R. Nalette Jr-so we do not have to make a decision tonight but we do have to close the public hearing and we can wait for some our questions to be answered from the town attorney. We can use this application as a significant impact, when we call a public hearing for a significant impact we require feasible and prudent alternatives. Then we are required to deny the application base on the feasible and prudent alternatives. We could look at the application to see if it has all we need to make a decision. Or there is the alternative that making sure through our conditions that every single issue was address this evening.

Motion: by S. Molinelli to close public hearing, second by C. Keily. **Vote**-all in favor-***motion carries unanimously.***

- S. Molinelli-the applicant was required to submit feasible and prudent alternatives which they are refusing to submit. So we have no choice but to deny the application.
- R. Nalette Jr-if in fact this board believes that there are feasible and prudent alternatives. If was whether it was our belief or the applicants belief that there was feasible and prudent alternatives. The question stands as to whether we believe there are feasible and prudent alternatives.
- S. Molinelli-and they refused by the attorney's statement that they refuse to submit any alternative.
- S. Eisenlohr-he did present something according to the response here on paper. I believe Mr. Cusik didn't want to submit any other ideas other than the one that was submitted.
- J. Rollins Jr-that statement was pretty vague.

- S. Eisenlohr-we were given a response list from Mr. Rogers which item 4 addresses the feasible and prudent alternatives.
- Public Hearing-accepting closing arguments for the applicant.
- R. Nalette Jr-the commission wasn't happy with the information received, some of the information requested wasn't provided. Including the lack of feasible prudent alternatives. It is the applicants right to provide us with or not provide us with information.
- Att. Cusik-I have nothing more to add to the record and I understand that the commission feels there may be feasible prudent alternatives and I asked the applicant if he wanted to explore and he does not want to provide additional plans and would like the decision based on what was submitted.
- R. Nalette Jr-we have an additional 35 days to make a decision when we close the public hearing. There are several issues that do need to be considered pending further information from the town attorney. The applicant does not believe that feasible prudent alternatives are feasible or prudent.
- J. Rollins Jr-however we were not given any alternatives.

Motion: by M. Delaney **to Deny Due to incompletion of Application #12-30 Margaret Ziolkowski, Proposal: Floating dock, buoy, swim float, walkway, floating skidoo lifts.** Map: 038, Blk: 113, Lot(s) 002, Zone: HLD based on oral and written testimony, second by J. Mulvey. **Vote**: all in favor-***Motion carries unanimously***.

- M. Delaney-my reasoning for it is because there are just too many questions and too much time has lapsed. I have very strong concern about people losing their view of the lake.
- J. Rollins Jr-for the record.
  - Neighbors view shed
  - Application as it stands is incomplete
  - Questions have remained unanswered.
- S. Molinelli-they haven't met the threshold for the public hearing and addressed the significant impact by stating that they don't want to provide a feasible and prudent alternative.
- J. Rollins Jr-I also feel it isn't going to meet their desired objectives. I don't feel there is enough information regarding the drainage system. I don't feel that is has been presented to the point where I feel comfortable approving it.
- R. Nalette Jr-A question has been raised and we need to make a motion. Motion denied to the incomplete status of the application based on written testimony and evidence in the record. A vote in the affirmative is to deny the application.

B. Application IWC 12-34
Applicant: Elaine & Robert Coco
Location: 128 Shore Drive
Map: 114, Blk: 105B, Lot(s) 57 & 58, Zone: HLD
Proposal: Repair Retaining Wall

- Robert Coco-present-to follow up on questions from last month. There was a question regarding the walkway near the pier. Basically what it is, is a permanent walkway. Additional plans provided to the commission.

- J. Rollins Jr-just so we understand the straight section of the retaining wall is going to be rebuilt, the curve section is just going to be repaired.
- R. Nalette Jr-all other questions have been answered.

Motion: by J. Mulvey **to APPROVE Application #12-34 Elaine & Robert Coco Proposal: Repair Retaining Wall,** Map: 114, Blk: 105B, Lot(s) 57 & 58 Zone: HLD based on oral and written testimony, second by J. Rollins Jr. **Vote**: all in favor-***motion carries unanimously.***

Conditions 1-12 are standard Inland Wetland Commission Conditions and the following additional conditions:

13. Cash erosion and sedimentation bond of $1,000 be submitted to the Inland Wetlands office before construction begins.
14. The plan complies with Ordinance Section 162 and the applicant will conform to all other outstanding items in Section 162.
15. Verification in writing to the Inland Wetland Office that iron survey pins have not been altered after completion of the contraction project. If altered, pins to be reset by Licensed Professional Land surveyor and provide the Inland Wetland Office a letter verifying pins have been property reinstalled.
16. No construction equipment allowed in the lakebed at any time.
17. Upon completion of work, the applicant shall set up an appointment for the Inland Wetland Agent to do a final inspection for compliance which includes:
    a. Sign off and update dock authorization form.
    b. Applicant to provide at least 3 photos of authorized work showing compliance.
    c. Returning cash bond if site is stabilized per Inland Wetland Agent.
18. Straw is to be used for stabilization or mulching of site instead of hay bales.
19. Owners and contractors will be making daily site inspection during the upcoming rains and will monitor whether or not additional measures will be required as well as providing maintenance of the existing soils and erosion control measures. Owners and contractors will implement addition measures. Owners and contractors will implement additional soils stabilization and erosion control measures above and beyond those indicated on the drawings, in response to the heavy rains and associated runoff.

C. Application: #IW07-43 Approved Oct. 17, 2007
Applicant: Donna McDermott
Location: 832 E. Wakefield Blvd.
Map: 44, Blk: 108, Lot(s): 48-58, Zone: HLD.
Proposal: Five Year Extension: Rebuild retaining wall, remove old one, demolish old garage and build a temporary new garage.

Motion: by J. Rollins Jr to Approve **Application: #IW07-43 Approved Oct. 17, 2007,** Applicant: Donna McDermott, Location: 832 E. Wakefield Blvd, Map: 44, Blk: 108, Lot(s): 48-58, Zone: HLD, Proposal: Five Year Extension: Rebuild retaining wall, remove old, one, demolish old garage and build a temporary new garage, second by S. Molinelli. **Vote**: all in favor-***motion carries unanimously***.

1. The 5 year permit extension request has been amended by the Connecticut General Assembly Public Act No. 11-5 which states that any permit issued by a municipal Inland Wetlands agency is valid for nine years from the date of approval. Your original permit is

valid thru 10-17-16. Ninety days prior to that date a 5 year extension can be applied for to the Inland Wetland Commission totaling 14 year maximum.

2. Any modifications of the Oct. 17, 2007 approval and plans will require a permit.

D. Application: #IW07-39 Approved Oct 17, 2007
Applicant: Brian & Jeannette Purdy
Location: 411 W. Wakefield Blvd.
Map: 032, Blk: 118, Lot(s): 9-9A, 10-10A Zone: HLD.
Proposal: Five Year Extension; Install 2nd floating dock.

Motion: by J. Rollins Jr to Approve **Application: #IW07-39 Approved Oct. 17, 2007,** Applicant: Brian & Jeannette Purdy: 411 W. Wakefield Blvd, Map: 32, Blk: 118, Lot(s): 9-9A, 10-10A , Zone: HLD, Proposal: Five Year Extension: install 2nd floating dock, second by S. Molinelli. **Vote**: all in favor-***motion carries unanimously***.

1. The 5 year permit extension request has been amended by the Connecticut General Assembly Public Act No. 11-5 which states that any permit issued by a municipal Inland Wetlands agency is valid for nine years from the date of approval. Your original permit is valid thru 10-17-16. Ninety days prior to that date a 5 year extension can be applied for to the Inland Wetland Commission totaling 14 year maximum.
2. Any modifications of the Oct. 17, 2007 approval and plans will require a permit.

- R. Nalette Jr-there is a question on the time permits.
- S. Eisenlohr-the language has been put on the motion form.
- S. Eisenlohr-read for the record additional information, regarding the five year extension request.
- Application eligible for a nine year extension. S. Eisenlohr will issue letters.

E. Application: #IWC 12-38
Applicant: Rachel Sutin
Location: 266 Perch Rock Trail
Map: 32, Blk: 105A, Lot(s) 79 & 80, Zone: HLD
Proposal: repair sea wall, remove and replace retaining walls and walkways, remove excess soil, permanently attach portion of dock to land.

Motion: by S. Molinelli to close public hearing, second by C. Kiely. **Vote**-all in favor-***motion carries unanimously***.

- S. Molinelli-we called the public hearing because of significant impact and a result of that statement that the applicant refused to submit any feasible and prudent alternatives, we have no choice but to deny the application.
- R. Nalette Jr-the questions stands as to whether we feel there are feasible and prudent alternatives.

Motion: by R. Nalette Jr **to APPROVE Application #12-38 Rachel Sutin**
Proposal: repair sea wall, remove and replace retaining walls and walkways, remove excess soil. Map: 032, Blk: 105A, Lot(s) 79 & 80, Zone: HLD based on oral and written testimony, second by J. Rollins Jr. **Vote**: four in favor, one abstaining C. Kiely-***motion carries***.

Conditions 1-12 are standard Inland Wetland Commission Conditions and the following additional conditions:

13. Cash erosion and sedimentation bond of $2,000 be submitted to the Inland Wetlands office before construction begins.
14. As built survey not required
15. Verification in writing to the Inland Wetland Office that iron survey pins have not been altered after completion of the contraction project. If altered, pins to be reset by Licensed Professional Land surveyor and provide the Inland Wetland Office a letter verifying pins have been property reinstalled.
16. No construction equipment allowed in the lakebed at any time.
17. Upon completion of work, the applicant shall set up an appointment for the Inland Wetland Agent to do a final inspection for compliance which includes:
    a. Sign off and update dock authorization form.
    b. Applicant to provide at least 3 photos of authorized work showing compliance.
    c. Returning cash bond if site is stabilized per Inland Wetland Agent.
18. Use native plantings prior to installation. Inland Wetland Agent to review plan
19. Excess material to be disposed off site.
20. Straw is to be used for stabilization or mulching of site instead of hay bales.
21. Stumps are not to be buried on site and are to be legally disposed of off site.
22. Owners and contractors will be making daily site inspection during the upcoming rains and will monitor whether or not additional measures will be required as well as providing maintenance of the existing soils and erosion control measures. Owners and contractors will implement addition measures. Owners and contractors will implement additional soils stabilization and erosion control measures above and beyond those indicated on the drawings, in response to the heavy rains and associated runoff.
23. The lake side patio to be pervious and to be constructed with field stone and not pavers and concrete.
24. Pursuant to IWC approval sea wall grout may be repaired during either a shallow or deep drawdown.

F. Application: #IWC 12-39
Applicant: Michael Bergamo
Location: 129 West Wakefield Blvd.
Map: 113, Blk: 121, Lot(s) 008A, Zone: HLD
Proposal: Place permeable stone and Garden wall on lake side of property.

- M. Bergamo present-there was a request from last month that I measure the garden wall to the lake. On the left hand side it is 19 feet and on the right side it is 25 feet.
- R. Nalette Jr-the only note I have on this application is that we needed dimensions which have been provided.

Motion: by J. Rollins Jr **to APPROVE Application #12-39 Michael Bergamo**
Proposal: Place permeable stone and Garden wall on lake side of property.

Map:113, Blk: 121, Lot(s) 008A, Zone: HLD based on oral and written testimony, second by R. Nalette Jr. **Vote**-5 in favor, one abstained C. Kiely-***motion carries***.

Conditions 1-12 are standard Inland Wetland Commission Conditions and the following additional conditions:

13. Cash erosion and sedimentation bond of $1,000 be submitted to the Inland Wetlands office before construction begins.
14. As built survey is not required
15. Verification in writing to the Inland Wetland Office that iron survey pins have not been altered after completion of the contraction project. If altered, pins to be reset by Licensed Professional Land surveyor and provide the Inland Wetland Office a letter verifying pins have been property reinstalled.
16. No construction equipment allowed in the lakebed at any time.
17. Upon completion of work, the applicant shall set up an appointment for the Inland Wetland Agent to do a final inspection for compliance which includes:
    a. Sign off and update dock authorization form.
    b. Applicant to provide at least 3 photos of authorized work showing compliance.
    c. Returning cash bond if site is stabilized per Inland Wetland Agent.
18. Use native plantings prior to installation. Inland Wetland Agent to review plan
19. Excess material to be disposed off site.
20. Use of slit fence or hale bale. Installation of combination required before any construction begins.
21. Straw is to be used for stabilization or mulching of site instead of hay bales.
22. Stumps are not to be buried on site and are to be legally disposed of off site.
23. Updated site plan showing measurements.

6. **New Business**

Application: #IWC 12-41
Applicant: Stewart Brandt
Location: 39 East Lake St.
Map: 114, Blk: 124, Lot(s) 002, Zone:
Proposal: Rebuild existing secondary dock and supports in same location and same size per plan.

- Stewart Brant-present-my dock is quite old and has been deteriorating over the years basically I would like to rebuild it.
- R. Nalette Jr-this would be same location and size. What is the dock currently made of.
- S. Brandt-it is a wood dock and I will be rebuilding it as a wood dock.

Motion: by J. Rollins Jr to **Accept Application: #IWC 12-41,** Applicant: Stewart Brandt Location: 39 East Lake St., Map: 114, Blk: 124, Lot(s) 002, Zone: ,Proposal: Rebuild existing secondary dock and supports in same location and same size per plan, second by M. Delaney. **Vote**: all in favor-***motion carries unanimously***.

7. **Other Business**

A. Town of Winchester Ordinance 162
- Ad Hoc Committee-update (meeting for the Fall)
- IWWC Subcommittee Guidelines – Dock & Mooring Ordinance – Sec 162

B. Town of Winchester Inland Wetlands Regulations - possible amendments/revisions.

C. POCD-Implementation Guide Comments: written or oral

8. **Agent Determination**

A. **Application: #IWC 12-40**
Applicant: McDonald's Corp c/o Ayoub Engineering
Location: 7 Main St.
Map: 116, Blk: 074, Lot(s) 009, Zone: CB-2
Proposal: Revise drive-thru lanes, add return lane to parking area, and add

Project Narrative taking from application

- Anthony Fruchtl- Ayoub Engineer present-site is 1.4 acres; it is abutted by Dunkin Donuts. The existing building is about 4200 sq ft with a seating capacity of 57. N Currently the location entrance is on Main St with a counter clockwise circulation around the site and has a single drive through which has single cash out and a single window for food distribution. The current layout has 73 parking places 2 of which are handicapped. The storm water currently flows to the back of the property through curb cuts and discharges into the river. The proposed revisions to the site include a dual drive through lane, a connecting lane from the south side of the lot to the north side. The multiple order points significantly reduce back-up by creating two paths of flow through the main "choke point" of a drive through lane. Installation of the dual drive through will require a reduction of parking places from 73 to 59.
- Part of the site falls within the 100 foot regulated area for wetlands as delineated by Natural Resource Services Inc. The west end of the site immediately adjacent to Mad River will hade designed rain gardens constructed. The rain gardens will allow for storm water runoff that currently travels across the parking lot to be filtered, providing a greater level of water quality to be discharged to Mad River. The gardens are not designed specifically to serve as infiltration beds, but increase flow through time will have some added benefit of groundwater filtration. Approximately 1-2 feet of native material will be removed from the rain garden areas and replaced with filter planting soil and mulch.

The **Agent approval** is issued subject to the following conditions and/or modifications:

1. The permittee shall notify the Inland Wetlands Commission immediately upon the commencement of work and upon its completion. Work cannot commence until 15 days after the date of publication of the legal notice in the newspaper authorizing the activity.
2. The conduct of the activity will have no greater than a minimal impact on any wetlands or watercourses. All work must be conducted outside of the wetlands or watercourses on site.
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 or its Agent.

5. In evaluating this application, the Wetlands Agent relied on information provided by the applicant. If such information is subsequently proved to be false, incomplete, or River 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 and 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 Inland Wetlands Enforcement Officer. The permittee shall immediately inform the Agent 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.

8. The authorization is subject to and does not derogate any rights or powers of the Town of Winchester, coveys 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 wetlands and watercourses.

9. If the activity authorized also involves activity or a project that requires zoning or subdivision approval, special permit, variance, special exception or building permit, 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 an operable condition 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 deficiency being found. The permittee shall maintain such control measures until all areas of disturbed soils at the site are stabilized.

11. Erosion and sedimentation controls must be installed and inspected **prior** to construction.

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. Erosion & Sedimentation bond of $1,000.00 be submitted to the Inlands Wetlands Agent before any construction begins.

B. Application #IWC 12-42
Applicant: Lisa Kriedel Trustee
Location: 550 West Wakefield Blvd.
Map: 038, Blk, 115, Lot(s) 001, Zone: HLD
Violation: Working in regulated area without permits.

The **Agent approval** is issued subject to the following conditions and/or modifications:

1. The permittee shall notify the Inland Wetlands Commission immediately upon the commencement of work and upon its completion. Work cannot commence until 15 days after the date of publication of the legal notice in the newspaper authorizing the activity.
2. The conduct of the activity will have no greater than a minimal impact on any wetlands or watercourses. All work must be conducted outside of the wetlands or watercourses on site.
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 or its Agent.
5. In evaluating this application, the Wetlands Agent relied on information provided by the applicant. If such information is subsequently proved to be false, incomplete 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 and 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 Inland Wetlands Enforcement Officer. The permittee shall immediately inform the Agent 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.
8. The authorization is subject to and does not derogate any rights or powers of the Town of Winchester, coveys 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 wetlands and watercourses.
9. If the activity authorized also involves activity or a project that requires zoning or subdivision approval, special permit, variance, special exception or building permit, 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 an operable condition 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 deficiency being found. The permittee shall maintain such control measures until all areas of disturbed soils at the site are stabilized.

11. Erosion and sedimentation controls must be installed and inspected **prior** to construction.

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. Erosion & Sedimentation bond of $1,000.00 be submitted to the Inlands Wetlands Agent before any construction begins.

9. **Warnings**

10. **Violations**

11. **Communications & Bills**

A. Chairman Report
B. Gilbert School-collapsing wall-200 Williams Ave report from LEI
C. IWC annual report
D. Clerk hours: 3 hr for $42.00
E. Sandra A. Huebner –boatlift complaint

12. Adjournment

Motion: by J. Rollins Jr. to adjourn at 10:40 pm, second by M. Delaney. **Vote**: all in favor ***Motion carries unanimously***.

Respectfully Submitted,

Rhonda Roy
Minutes Secretary
U:\IWC\minutes\IWC10172012.doc

- Some discussions incomplete due to malfunction of recording.