

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

Minutes September 19, 2012

The meeting was called to order by Chairman C. Waring. The following members answered roll call: Jackie Mulvey, Sue Peacock, Jim Rollins Jr, S. Molinelli, M. Delaney, R. Nalette Jr and Scott Eisenlohr, Inland Wetland Agent. C. Kiely (absent excused) and Robert Haburey Jr (absent).

3. **Approval of Minutes 8/15/12**

Motion: by J Rollins to approve minutes of 8/15/12, second by R. Nalette Jr. One abstain M. Delaney. **Vote:** all in favor-*Motion carries.*

- PAGE 9-spelling of Ralph Cozier

4. **Agenda Review**

Add-Jonathan Ilany-212 Grantville Rd Item D-Old Business

5. **Old Business**

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

A. **Application IWC 12-30**

Applicant: Margaret Ziolkowski

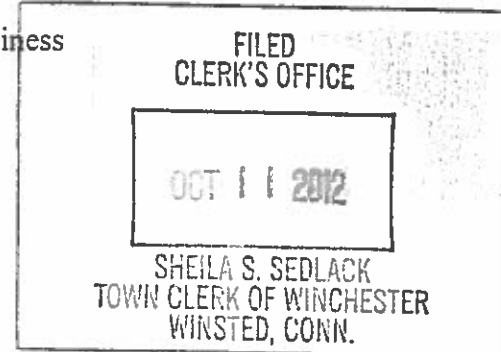
Location: 716 W Wakefield Blvd

Map: 038, Blk: 113, Lot 002, Zone: HLD

Proposal: Retaining wall, walkway, relocation of driveway, support wall, bunkers.

Motion: by S. Peacock to open public hearing at 7:10 pm, second by R. Nalette Jr. **Vote:**-all in favor. **Motion carries** unanimously.

- Applicant-provided additional information regarding review from Laurel Engineering, they didn't have a chance to review because they did not receive the plans until yesterday also the structural engineer is here if there are any questions.
- S. Peacock-who sent the plans out to Laurel Engineering.



- S. Eisenlohr-my office did, we sent them out to three different engineers, Laurel sent their bid in right away and we had to follow up with the second one and the third one I called the owner when I had the two bids in and we sent it out to the engineers right away.
- S. Molinelli-have all the proper notifications been sent out?
- S. Eisenlohr-to my knowledge yes it has.
- Confirmation on time line brings application to November.
- Commission reviewed engineered plans from Laurel Engineering dated 9/17/12.
- Lori Sizemore-718 W. Wakefield Blvd-one of our main concerns are the sewer that we share between our property at 714 and 716 W Wakefield Blvd. pointed out sewer lines on map and concerned about the weight over the proposed material on the sewer line.
- S. Eisenlohr-I spoke with public works and they are checking into an easement so if something was to happen with the sewer line they can go and repair it. If it has to be repaired they would need to have access to the sewer line.
- L. Sizemore-when we bought our house 12 years ago showed a picture of what was built on her property and where the sewer line goes through. It is our sewer line however if there wall was to collapse and break our line who would be responsible and they want to move and add additional six and a half feet where the line intersects.
- Plans shows location of grinder pumps.
- L. Sizemore-our second concern was regarding the height this would completely obstruct our view from our back door. So esthetically from our view it would be very disruptive. This would block our view from inside our house and our views to the lake from our deck.
- John Macsata-714 W. Wakefield blvd-I spoke with public works and they said the sewer lines in down 4 feet, when I was looking at the plans the concrete slabs go down 42 inches plus another 4 inches of compacted soil. They will be pretty close to the sewer line. This will be higher than my bed room windows and you will be able to look in as you are walking down.
- S. Peacock-will this obstruct your view.
- J. Macasta-from my window I see a tree and mafia blocks. My concerns are the sewer line, additional noise from the driveway and the water shed view.
- Michael Sizemore-718 W. Wakefield Blvd-J. McCarthy came out today and indicated to my wife that he felt that there was never a permit given to put in the mafia blocks. The reason I bring this up is concerns regarding the sewer line because there is always enough weight on it now.
- C. Waring-you indicated that the flaggy has been placed for the height of the wall could you show us on the plans specifically where that is, left of the center of the base of the wall noted for the record.
- Applicant-the wall itself is roughly 6 ft however if you look at the wall itself you are looking at existing grade and new grade. You are looking at the maximum of 2 feet of wall that you are going to see because it is going to be filled in on the outside of it.

- Further review of plans indicated that neighboring properties would see 2 feet of wall and approximately 4 feet of grass, the sewer lines and the weight of additional material on the lines.
- S. Peacock-you are taking down the wall that is on your own property but your leaving the wall that is not on your property.
- C. Waring-for the record I was handed a map from the highland lake sewer project showing the sewer lines for that particular property. I would like to see if we can get a map showing exactly where that sewer line from public works.
- C. Waring-suggests applicant to review Laurel Engineering's study, there is items that need to be addressed or added to the plans. We talked about the contour lines and the possibility of moving the currently existing upper wall fully onto the property of 716. Also in Laurel Engineering study was to have reasonable prudent and feasible alternatives.
- D. Cusick-I saw from your July meeting it stated that having an outside consultant such as Northwest conservation might be involved. Do you know where that stands?
- S. Eisenlohr-it's on hold until the applicant revises the plans according to the comments from Laurel.
- D. Cusick-so once a decision is made it will go to Northwest Conservation at that point.
- J. Rollins Jr-prior to the next meeting I think we should know what the building inspector is going to require as far as a fence on top of that. I expect the likelihood of encountering ledge what kind of contingency plan is required.
- Robert Richardson-structural engineer-if we encounter ledge that will be handled during the construction.
- S. Peacock-wouldn't it be wise to have soil testing before they start which would tell us right away what we are dealing with.
- L. Sizemore-from what they are describing, on their plans it shows one drain, what about our side of the property where will that water drain.
- Applicant-the contour of that land will reflect on the plan.

Motion by S. Peacock to continue public hearing until October 17th Application #12-30 Margaret Ziolkowski, Proposal: Floating dock, buoy, swim float, walkway, floating skidoo lifts. Map: 038, Blk: 113, Lot(s) 002, Zone, second by J. Mulvey. **Vote:** all in favor-*Motion carries unanimously.*

Motion: by R. Nalette Jr to Table pending the public hearing of Application #12-30, second by S. Peacock. **Vote:** all in favor-*Motion carries unanimously.*

B. Application IWC 12-28

Applicant: Matthew Closson

Location: 722 Lake Drive

Map: 038, Blk: 035, Lot: 107 Zone: HLD

Proposal: Demo house, new foundation, rebuild existing seawall & pier, install boatlift, and drill new well.

M. Closson-provided further information requested from last month's meeting including the aggregate width. The pier is basically a pile of rubble, the existing dock is about 10x15; we are going to have a stone mason come out and construct it with mortar and use the stone that is there. The elevation of the basement floor is going to be 8, 8 and 6.

S. Peacock-do you need such a large pier for that size dock.

M. Closson-we could probably downsize it, based on the pile of rubble that's the size it would be however we could haul some of that out of there.

s. peacock-so basically it is an 8x12.

C. Waring-how deep is the water in that area.

M. Closson-about 4 feet.

R. Nalette Jr-one issue we haven't covered is that you are increasing the site coverage from 28.5% which already exceeding the planning and zoning coverage requirements to 36%. You are looking at 16% increase in pervious surface of this site.

M. Closson-we have been in front of ZBA, they haven't had a quorum, we will be meeting with them again next Tuesday. I was hoping to get approval from Wetlands so we could start preparing the site so when we do get approval we can move forward.

S. Molinelli-if eventually he gets before ZBA and they give him the ruling to down size, then we approved what is before us now, would he have to come back to us.

s. eisenlohr-yes for a modification. He gave us a 65 day extension two months ago and we are at day 63.

J. Rollins Jr-on the retaining wall down on the waterfront, what is going to be done to that wall?

M. Closson-it is a stone wall, the base of the wall is starting to crumble, it will be a repair with stone and mortar, and we will be putting crushed stone behind it.

Motion: by C. Waring to **APPROVE** Application #12-28 Matthew Closson

Proposal: Demo house, new foundation, rebuild existing seawall & pier, install boatlift, and drill new well. Map: 038, Blk: 035, Lot(s) 107 Zone: HLD based on oral and written testimony, second by J. Rollins Jr, one opposed R. Nalette Jr. **Vote:** all in favor-*Motion carries.*

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

13. Cash erosion and sedimentation bond of \$ _____ be submitted to the Inland Wetlands office before construction begins. **\$2,000 for site work phase and \$1,000 for the sea wall & dock phase.**
14. The plan complies with Ordinance Section 162 and the applicant will conform to all other outstanding items in Section 162.
15. As built survey required

16. 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.
17. No construction equipment allowed in the lakebed at any time.
18. Update dock registration before work begins and submit at least 3 photos.
19. 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.
20. Use native plantings prior to installation. Inland Wetland Agent to review plan
21. Excess material to be disposed off site.
22. Use of slit fence and hale bale combination is required. Installation of combination required before any construction begins.
23. Straw is to be used for stabilization or mulching of site instead of hay bales.
24. Stumps are not to be buried on site and are to be legally disposed of off site.
25. 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.
26. This approval includes the two drawings submitted at the 9/19/2012 IWC meeting.
27. Phase ii, pier/retaining wall phase may not be initiated until wetlands agent is notified and bond is post.

C. 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

Motion: by R. Nalette Jr to Table Application #12-34 Elaine & Robert Coco
Proposal: Repair Retaining Wall. Map: 114, Blk: 105B, Lot(s) 57 & 58 Zone: HLD, second by
S. Peacock. **Vote:** all in favor-*Motion carries unanimously.*

(location of tape #3 unknown) (notes from agenda)

- Footing drains in wall
- Single existing step stays
- Work on concrete pin-steps both sides of pin

D. **Application #12-23**
Applicant: Jonathan Ilany
Location: Winchester Lake Weed Removal

- Application withdrawn
- Fee returned

6. **New Business**

A. **Application: #IW07-43 Approved Oct. 17, 2007**
Applicant: Donna MacDermott
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 C. Waring to **Table** 5 year extension on Application #07-43, 832 E. Wakefield. Proposal: 5 year extension request. Map: 044, Blk: 108 Lot(s) 48-58, Zone: HLD, second by R. Nalette Jr. **Vote:** all in favor-*Motion carries unanimously.*

- Check on date

B. **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 **Table** 5 year extension on Application #07-39, 411 West Wakefield. Proposal: 5 year extension request. Map: 032, Blk: 118, Lot(s) 9-9A Zone: HLD, second by S. Peacock. **Vote:** all in favor-*Motion carries unanimously.*

C. **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. Peacock to **Accept 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, second by J. Rollins Jr. Vote: all in favor-
Motion carries unanimously.

D. 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.

- Applicant Michael Bergamo-I would like to add to what is already on the property and add a small garden wall
- C. Waring-in the photo-the existing gravel is what you currently have.
- M. Bergamo-we did have the land surveyed, it will be wider on the left hand side and extend it more to the right side of the property. The tree is staying. The wall will be at the base of it, then the gravel and then the garden wall.
- C. Waring-looking at the property from the road you are extending on the right hand side to the picket fence with the gravel.
- j. Rollins Jr-how much space is between the lake and the garden wall?
- M. Bergamo-it should be on the survey map, it has to be at least 20 feet if not more.
- C. Waring-in next month's meeting if you include the additional measurements, so we have the total depth of the property.

Motion: by S. Peacock to **Accept Application IWC 12-39**, 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

9. Warnings

Violations

A. **Owner:** Michele Babij
Location: 139 West Wakefield Blvd.
Map: 113, Blk, 121, Lot(s) 008, and 008A
Violation: Operating a Marina

- S. Eisenlohr-I received some information from a Mrs. Eseppi and Mr. Lauzier and a copy of a lease agreement. A warning letter has been sent to the owner. Read for the record from dock ordinance, the docks should be used for private noncommercial use except for the one existing marina at Highland Lake. M. Babij said she had tried to reach me repeatedly with no success. She talked to the town manager and I was never told that she removed the boats therefore I followed up with a cease and desist letter on October 11th. She complied immediately and I didn't know that.
- Copy of letter date September 17, 2012 and it is in reply to the cease and desist letter that was issued on September 11, 2012.
- C. Waring-one of things mentioned was the boats were removed prior to the cease and desist letter being sent. S. Eisenlohr's letter was dated on 9/11/12 and it states the boats were removed on 9/12/12, so technically the boats were not removed prior to the cease and desist letter. According to section 9F it clearly states that the docks are not supposed to be used for commercial purposes. Have we confirmed that the boats have been removed?
- S. Eisenlohr-yes.
- C. Waring-you are currently in compliance with the cease and desist letter that went out, it would be my recommendation that we lift the cease and desist letter at this point.
- C. Lavoie-representing M. Babij-the ordinance does not say what you are saying it says, are you saying that the property at 139 W. Wakefield blvd that M. Babij owns can not be rented. The docks people own can't be rented.
- C. Waring-what it states is that the docks can't be used for those commercial purposes which would be renting out that dock.
- C. Lavoie-the lease says that she is renting the property along with the dock. 139 W. Wakefield is a non buildable lot, it used for picnics and they use the dock. So how is that in violation?
- S. Peacock-are you renting out the property to one person.
- C. Lavoie-no there are three, section E allows three boats at a dock. If you want that not to happen then this ordinance has to be written differently.
- S. Peacock-we are saying you can't have a marina on the lake other than the one marina that is already there.
- C. Lavoie-that is clear in there however she is renting a piece of property that she owns and using the dock with it.
- C. Waring-this is the commission interpretation of the ordinance, whether the argument that your making is applicable or not. However this is a single piece of property that is being rented out to multiple families.
- C. Lavoie-I don't think the definition of a marina applies here.
- C. Waring-we are looking at the ordinances and I think when that occurs our town attorney should be addressed those specific questions.
- S. Peacock-how long has the property been rented out.

- M. Babij-couple people have been there 7 to 8 years. I was told when I rented out the boat slips it had to include the property.
- S. Eisenlohr-in my mind it has always been clear that you can't rent out a dock and I have never said that to this woman. I have had several people complaint about it.
- C. Lavoie-is that the position of the commission that she can't rent her property with the dock.
- S. Eisenlohr-she is renting her property to three different people that makes it commercial property and that is how I interpreted it.
- J. Rollins Jr-I was on the subcommittee when that was addressed and the intent was pretty much as we have understood it. If I rent a house to somebody that has access to the lake it is renting the site, I think we need to revisit that and decide what does it mean and ask our town attorney on how to write this to reflect that.
- C. Lavoie-I see that you are working on it which the minutes reflect. I didn't want this point not to be made in the record regarding the interpretation Sec 9 E&F.
- R. Nalette Jr-we will be opening up our Sec 162 for discussion and modification and we are looking for members of the community to be involved.
- C. Waring-I think the overall result of what we have tonight is even with the commissions interpretation of what the ordinances are that has been resolved in our eyes. We should be able to lift the cease and desist order and there would be no citations issued. In our process we would be revisiting that along with the rest of the ordinances.
- C. Lavoie-unfortunately there was a lot of bad publicity around this and I think it was completely unnecessary.
- S. Peacock-it is also unfortunate a matter of timing with phone calls and all that. Letters weren't received, phone calls weren't received and things weren't moved around in the town hall.
- C. Waring-as far as next year goes I would check in and see what the ordinance is to see if anything has been adopted or changed.
- S. Molinelli-we have an understanding and you have an understanding. Why were the boats removed if this was your understanding?
- M. Babij-because I got scared because of the letter of cease and desist.
- C. Lavoie-she called me and I told her she didn't have to do that if she felt she was in the right. There was bad publicity and neighboring complaints. She was disturbed enough where she thought she better just have them removed. The ordinance is not clear that she is wrong it what she was doing.
- S. Peacock-docks should be for private and no commercial use, when you exchange money for use of a property with three people renting it doesn't that become commercial use.
- C. Lavoie-the question is do you consider you house commercial use if you were to rent it out.

Motion: by R. Nalette Jr to **lift the cease and desist order** on Michelle Babij because she has resolved the issue, second by S. Peacock. **Vote:** all in favor-*motion carries unanimously.*

11.

Communications & Bills

A. Chairman Report

- B. Gilbert School-collapsing wall-200 Williams Ave report from LEI
- C. IWC annual report

12. Adjournment

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

Respectfully Submitted, •

Rhonda Roy
Minutes Secretary

U:\MINUTES IWC 9-19-2012.doc