



TOWN OF WOODBURY
Inland Wetlands and Watercourses Agency
281 Main Street South
Woodbury, CT 06798
(203)263-3467 ~ www.woodburyct.org

REGULAR MEETING MINUTES
May 24, 2021 – 7:30 pm

MEMBERS PRESENT:

Wes Clow
Marty Newell
Kyle Turoczi
Mary Tyrrell
Ernest Werner

ALTERNATES PRESENT:

Earl Gillette
Evan Hard
Don Richards

Also present: Land Use Enforcement Officer Dylan Willette (by phone), along with other applicants in attendance or on the phone, and substitute clerk Deb Carlton

Regular Meeting

Meeting convened at 7:33 pm. Regular members Clow, Newell, Turoczi, Tyrrell and Werner were seated. Alternates Gillette, Hard and Richards were recognized. Members were reminded of Conflict-of-Interest statutes and Town Charter.

PENDING APPLICATIONS

21-IW-2111 / Landry / 241 Weekepeemee Road / Request for Jurisdictional Ruling to clean up existing ditch, cut dead shrubs, clean state culvert, construct 15 x 15 skid barn, move/alter existing tent / Map 040 / Lot 035B

Tabled. A memo will be sent to applicant so that jurisdictional ruling can be finalized.

21-IW-2112 / Ordonez / 52 Scuppo Road / Request for Jurisdictional Ruling to clean up downed trees and storm debris / Map 084 / Lot 008-8 (*Withdrawn*)

Tabled. Application withdrawn.

21-IW-2113 / McGovern / 93 Weekepeemee Road / Request for Jurisdictional Ruling to Cut down and maintain died, dying, diseased, hazardous and overgrown brush. Cut stumps down to ground level. Pick up small rocks and plant grass. Maintain grass and growth by weed whacking and mowing / Map 040 / Lot 048

Mr. McGovern was available by phone.

Mr. Werner recused himself, and Mr. Richards was seated.

Members reviewed maps, surveys related to the property. Mr. Richards wondered if the sluice wall is on the property and was told by the applicant that it is. Mr. Willette explained the standard measurements used on the map(s). Mr. Richards was looking for the end of the sluice wall, and felt the map shows it going into the next property.

Ms. Tyrrell asked if the applicant could attend a future meeting, so everyone could be looking at the same thing at the same time. Mr. McGovern will get another survey if needed. Mr. Clow needs the map to be field marked; he needs the boundaries marked out.

Asked by Ms. Tyrrell if the applicant understands what is needed, he responded he does not. Ms. Hard noted the pictures were devastating and evidence of clear cutting. This matter has gone on month after month, she said, and it would be best if the applicant came in to meet as opposed to over the phone.

Ms. Tyrrell added if he seeks a jurisdictional ruling, this doesn't fit any category because he's already gone beyond what would be permitted in a jurisdictional ruling.

Ms. Newell entered: *MOVE to deny a jurisdictional ruling on this application for lack of information provided by the applicant.* Second by Mr. Clow. MOTION CARRIED 5-0.

The applicant may submit another application.

21-IW-2114 / Ordonez / 52 Scuppo Road / Construction of a 10' x 20' Shed and Clean up Downed Trees and Storm Debris within a Regulated Area / Map 084 / Lot 008-8 / D or OH: 6/30/21

Tabled.

A site walk was completed, and they are ready to give permission for this project. Another memo will be sent noting the need for the applicant to revise information on page 2.

Mr. Richards was unseated, and Mr. Werner was reseated.

21-IW-2115 / Michael Lattis & Michelle Pakula / 877 Washington Road / Construction of a 100 Square Foot Addition to a Single-Family Residence within a Regulated Area / Map 072 / Lot 001 / ED: 5/24/21, D or OH: 7/14/21

Mr. Turoczi recused himself.

Mr. Richards was again seated. Mr. Lattis was available by phone.

Ms. Tyrrell shared additional drawings showing construction materials, proposed schedule. Mr. Richards wondered if the addition could be completed without putting in a basement and was told by the applicant it is not a full basement. Post and beam construction was considered. Ms. Tyrrell felt 4' from the building was not an absurd distance to ask. Mr. Clow was not in favor of the plan; under today's standards, a house here would not be approved so close to the river. Ms. Tyrrell suggested checking with a structural engineer for alternatives prior to bringing an application for approval. Mr. Lattis asked what would be more acceptable and was told by Ms. Tyrrell that the Agency does not generally encourage building in the flood plain. Mr. Lattis asked whether to open a new application, or to make changes and additions to the existing one, hoping to be ready in 2 weeks. He was told he could add to the existing application.

21-IW-2116 / McClintock / 237 Washington Road / Replace Existing Deteriorated Barn and Add Temporary Shed / Map 039 / Lot 004 / ED: 5/24/21, D or OH: 7/14/21

Tabled.

Mr. Turoczi was reseated, and Mr. Richards unseated.

NEW APPLICATIONS

21-IW-2117 / CT Clinical Services Inc / 15 Woodside Circle / Restore Existing Pond to allow for Possible Use of Existing Dry Hydrant & Provide Water for Fire Suppression / Map 056 / Lot 016-3 / ED: 6/14/2021

Ron Wolff present to represent this application. Mr. Wolff described the current state of the pond, it's been surveyed, and the plan is to restore it (shown with blue outline on map) because the facility is in use and would like a functioning hydrant. Ms. Newell asked about weeds removed from the pond, where would they go, and was told they would be left on site, in the low area. Mr. Richards was in favor of using the pond in case of fire, asked the depth, and was told 4-5' deep. Ms. Tyrrell suggested a filter or catch basin to prevent silt coming back into the pond from the stream. Mr. Wolff will look into that. The pond is man-made, and the fire marshal will be consulted about it, too.

21-IW-2118 / Anderson / 11 Bear Hill Road / Demolition and Reconstruction of Singe Family House in Regulated Area / Map 036 / Lot 071 / ED: 6/14/2021

Mr. Anderson was present, and Mrs. Anderson was available by phone.

The Agency reviewed maps.

Mr. Anderson explained the home has been vacant since his father's passing in 2011. His plan is to take down the 1930's era house and to replace with a 2-story home, will hope to use part of the existing foundation but will need to evaluate that, the area is about 50' from wetlands, he gave limits on excavation, showed areas of poorly draining soil, identified setbacks and showed where silt fence will be installed. There is a slight increase over the existing footprint of the home, and the new one will be about 1860 sq.ft. Ms. Tyrrell suggested a site walk and one was planned for June 14th at 7 pm

OTHER BUSINESS

18-IW-1801 / Garrett Homes LLC / 614 Main Street South / Bond Release Request Dollar General / Map 102 / Lot 025

Tabled.

Ms. Tyrrell is interested in another site walk. Some things have been done, there are a lot of dead trees, but there is no rush on releasing the bond, so the Agency will wait on this.

Discussion regarding letter from Peter Bowles and Erosion Concerns at 5 South Street / Map 062 / Lot 024E-2

Mr. Bowles was present and read his letter (attached hereto), copies of which were supplied to the Agency. Discussion followed regarding the size of pipe, and retention pond not being maintained as prescribed. Ms. Tyrrell asked Mr. Willette to check for approvals at the time, to see if maintenance was required and by whom. Mr. Willette reported visiting the site with DPW Director, Rich Lamothe. In the culvert on the other side of the street, a 36" pipe is feeding a 24" pipe. The plan is to extend the pipe and replace rip rap.

Mr. Turoczi suggested contacting Brian Baker, adding there is no retention and there is significant erosion. Ms. Tyrrell suggested asking Mr. Lamothe whether there is funding in his budget for engineering guidance at that location, instead of a band aid solution. Mr. Richards asked Mr. Willette to also locate the maps and IWWA approval for the Cardinal Hill subdivision.

ENFORCEMENT & WETLANDS UPDATE

21-ENF-0001 / McGovern / 93 Weekepeemee Road / NPV Clearing, Excavating & Grading within a Regulated Area / Map 040 / Lot 048

Tabled.

21-ENF-0002 / Eimer / 346 Quassapaug Road / NPV Clearing, Grading, & Stockpiling of Materials within a Regulated Area / Map 077 / Lot 094B-3

Tabled.

Mr. Willette has done a drive by, was not able to contact the owner last week, will keep trying and will make arrangements with them to have stockpiles removed.

21-ENF-0004 / North / 148 Tuttle Road / NV Grading Activities within a Regulated Area and Diversion of Water Toward the Adjacent Property Leading to Sedimentation & Silt Accumulating in an Existing Wetland / Map 021 / Lot 028-3

Robert and Racquel Ditullio were present.

Peter and Ben North were also present.

Ms. Tyrrell recalled this property was walked, and asked members for questions/comments. Mr. Clow noted the Town is addressing drainage on the road and will be addressing the pipe; there is a lot of debris, but it is clear to him a berm was added to cause water to flow into another property. Ms. Tyrrell added that pictures were shown from different times, and new soil exposure can be seen. Mr. Turoczi acknowledged lots of material coming off the town road, but the town is addressing this so it will not continue to be an issue. Ms. Tyrrell feels the channel should be filled back in, recommended it not be there. The Agency reviewed maps, a packet provided by Mr. North, and read a letter from him as well (attached hereto). A stone wall was discussed as a method to dissipate water and prevent erosion. Ms. Tyrrell noted the issue is digging in a set back area without permit. Mr. Clow felt this issue is being resolved but noted you cannot divert water. Ms. Tyrrell explained once the pipe is dead ended, the Norths will need to take responsibility to stabilize the ground in the set back area. Mr. North noted sand was pulled out. Mr. Turoczi offered a definition of intermittent watercourse, noting none exist there, and Mr. North asked what to do. Mr. Turoczi suggested leaving it alone to fill in. A consensus was reached: the Agency wants Peter North to put it back and fill it in. The Agency will commence enforcement action if this is not done once the Town's work there is completed. Mr. North said he'd also contact Mr. Lamothe from DPW, but Ms. Tyrrell cautioned he will not do the work for Mr. North. The Ditullios thanked the Agency for its time.

The Agency added an enforcement issue. Mr. Werner entered: *MOVE to add Enforcement issue 21-ENF-0005 / Stevens/Groben to the agenda.* Second by Mr. Clow. MOTION CARRIED 5-0.

Ms. Tyrrell noted vehicles near the Mill House, across the street, with concerns about access into the property and into the woods. The concern is wetlands back there, she said, and thought an application might be needed. Mr. Groben, by phone, explained he applied to change the land designation to agricultural with the USDA. He hasn't gotten that but wants to try to start a farm. He explained the access as the way to get his cattle in. Ms. Tyrrell said the Agency will need to look at this. Without permits, and through wetlands, access roads cannot be built and millings cannot be left. She urged submitting a plan and application with maps before beginning any work of that type. Mr. Groben, who is leasing the property, asked if he can use the owner's maps and was told he could, with Mr. Steven's permission. She urged knowing where wetlands are before doing anything, no excavating, no fill.

Ms. Newell left the meeting at this point (9:37 pm)

Mr. Willette discussed soil mapping on the GIS, and Mr. Groben noted he has that soil mapping.

CORRESPONDENCE – None.

PRIVILEGE OF THE FLOOR

Mr. Willette asked for clarification of Mr. North's time frame to get the work done once the Town's portion is completed and was told 30 days.

There was discussion of contacting Trofa concerning maintenance of the retention pond, and Mr. Willette was urged to send a certified letter.

Mr. Clow mentioned an application on Weekeepemee Road and asked that Mr. Willette have a look. There are no silt fences. He commented about improperly installed silt fences throughout town. Mr. Turoczi commented that the Agency has the right to regulate beyond 100' if significant impact can be shown, based on the CT State Supreme Court case mentioned at a previous meeting.

CONSIDERATION OF MINUTES

Mr. Clow entered: *MOVE to approve the minutes of the special meeting of May 9, 2021 and the regular meeting of May 10, 2021 as presented.* Second by Mr. Turoczi. MOTION CARRIED 4-0-1, with Mr. Werner abstaining.

ADJOURNMENT

Mr. Clow entered a *motion to adjourn.*
The meeting of the Inland Wetlands & Watercourses Agency adjourned at 10:04 pm and the phone connection with the public was ended.

Respectfully submitted,



Deb Carlton
Substitute Clerk

Filed subject to Agency approval May 25, 2021

RECEIVED FOR RECORD
May 25 2021 at 3:45pm
ATTEST *Maria M. Mancini*
TOWN CLERK, WOODBURY CT *ASST*

*The Bowles • 11 South Street • Woodbury • Connecticut, 06798
Cell: 203-623-1055*

April 14, 2021

The Inland Wetlands and Water Courses Agency
The Town of Woodbury
281 Main Street South
Woodbury, CT 06798

RECEIVED
APR 20 2021
TOWN OF WOODBURY
Land Use Office

Re: Severe Erosion in the Conservation Easement Area at 5 South Street

Dear Agency Members:

45 years ago, when my wife and I purchased the 6+ acres that now comprise numbers 5 and 11, the No Name brook which parallels the west side of Grassy Hill Road from South Street down the hill to Transylvania Road was a gently babbling brook that was easily accessible by the ponies we had in the early 80's as their primary water source. Although I could not find any pictures from that time, now as you can see from the attached pictures that area is severely eroded and any pony (or human) trying to get down to the brook would be at risk of breaking a leg. What has happened in the meantime is the Cardinal Hill Subdivision which was approved approximately 30 years or so ago. The approval required the installation of a retention pond at the north west corner of South Street and Grassy Hill Road that was intended to catch the anticipated increased runoff from the subdivision as houses were built. Unfortunately, the exit pipe from the "retention pond" is oversized and therefore the pond does not do the job of retaining storm water as it was intended to do, resulting in the erosion.

I was unaware of this problem until about 13 years or so ago when we were seeking approval of The Deer Hill Re Subdivision in order to transfer ownership of a building lot to our daughter and son-in-law, Lisa and Adam Goldberg, who now live at #5 South Street of which the eroded Conservation Easement Area is a part. When I became aware of the erosion problem, I sought assistance in solving the problem and was able to have Jerry Stomski, the First Selectman, Dave Moncton, the Town Engineer and Judi Lynch, the Land Use Administrator come to the location and inspect the retention pond. They all agreed with the assessment of Brian Baker, P.E. of Civil One that the retention pond should have an exit pipe of only 12 inches vs. the 24-inch current exit pipe. They pledged to "see what they could do" to solve the problem in order to enable the retention pond to perform as intended. Nothing has happened for a variety of reasons including a retirement, two deaths and a job change. And the erosion has I believe actually accelerated. I am writing now in the hope that you can bring about a solution to this worsening problem. Thank you for your consideration.

Best regards.


Peter E. Bowles

CC: Lisa and Adam Goldberg, 5 South Street, Woodbury, CT 06798
Carol Haskins, Executive Director, Pomperaug River Watershed Coalition.
39 Sherman Hill Road Suite C-103, Woodbury, CT 06798

May 24th, 2021

Dear Woodbury Inlands Wetlands Committee,

Please consider the following final points I would like to convey in your decision-making process.

- 1.) I purchased the property at 148 Tuttle Road in 1994 and the water flow/channel was where it is currently in 2021.**
- 2.) There are three key pieces of evidence dating from 1996 which clearly support that this flow of water existed from my property at 148 Tuttle Road into the wetland at 130 Tuttle Road, which constitutes a large portion of their property, even before the house at 130 Tuttle Road was constructed. These key pieces of evidence are as follows:**
 - a. On March 25th 1996, the Inland Wetlands Committee approved the construction of a culvert under the driveway at 130 Tuttle Road specifically to accept the flow of water from 148 Tuttle Road. Please see the Inland Wetlands Committee meeting minutes from March 25th 1996 for this evidence which I have also supplied to the committee.**
 - b. On March 26th 1996, the improvement location survey map prepared by Curt Smith for constructing the house at 130 Tuttle Road explicitly shows the flow of water coming from 148 Tuttle Road to meet at the exact spot where the culvert was placed to maintain the natural flow of water from my property into the wetland at 130 Tuttle Road. One of the only lines included on this map depicted on my property is one which shows a watercourse at this exact point on my property which flows through the stone wall, then into the culvert under the driveway at 130 Tuttle Road, and then into the wetland that exists on 130 Tuttle Road. This map can be found in the town records and has previously been submitted to the Inland Wetlands committee.**
 - c. On April 20th 2020, Curt Smith, the surveyor of the property during its construction, sent an email to Mr. DiTullio explicitly stating, "the natural flow of this runoff from the road was in a northerly direction from what is now Peter North's property through the old stone wall and into the wetlands in your front yard. The flow continued north and then west (around where your house was built) and then eventually ended up in the woods northwest of your house. Accordingly, when the plans for your house were drawn, we proposed a new pipe to be installed under the**

driveway so that flows could continue in a northerly direction from the stone wall to the wetlands in your front yard”.

Mr. DiTullio neglected to share this important email with the Inlands Wetlands committee and instead the DiTullio's have repeatedly stated the contrary to this committee that the culvert under their driveway was never constructed to accommodate the flow of water into the wetland from 148 Tuttle Road but simply for their property alone.

3. Additionally, Mr. DiTullio has stated that the channel to accommodate water flow existing from 148 Tuttle Road was made recently since he purchased 130 Tuttle Road. The Woodbury GIS maps for 2016 clearly show that a channel was in place in 2016, which is several years before the DiTullios purchased the property at 130 Tuttle Road.
4. About ten years ago I contacted David Monckton, the former director of Woodbury's Public Works, because road and sand silt began blocking this natural flow of water from my property into the wetland. After looking at the site, Mr. Monckton suggested that to preserve the natural flow of water I could remove the sand and silt deposited in this area as long as I did not change the water flow from my property into the wetland at 130 Tuttle Road. Mr. Monckton also indicated at that time the town did not appear to have a drainage easement.
5. The cross-culvert depositing water and silt on my property will soon be blocked off due to current drainage construction efforts by the town. Since this cross culvert will soon be blocked off, about 90% of the water flowing onto my property will soon be blocked off as well. Therefore, this current drainage construction project should render this entire situation a moot point.

Thank you very much for your consideration.

Best,

Peter W. North