



Town of Warren  
INLAND WETLANDS & CONSERVATION COMMISSION  
50 Cemetery Road  
Warren, Connecticut 06754  
860 868 7881 x 117

## **Public Hearing - Regular Meeting Minutes**

Thursday, March 25, 2021 – 7:00 pm

*Via Zoom Video Conference (See link below)*

### **PUBLIC HEARING**

#### **Call to Order, Seating of Members, and Designation of Alternates**

PRESENT were Chairman John Favreau, Vice Chairwoman Cynthia Shook, and Nora Hulton and Alternate Tara Tanner was seated for Mr. Caldwell. ABSENT were Nancy Binns, Thomas Caldwell and Alternate Darin Willenbrock. Joanne Tiedmann was present to begin the videoconference platform; at 7:00 p.m., she turned the monitor controls over to Richelle Hodza, Land Use Officer. Mr. Chairman called the meeting to order at 7:06pm.

The following application was withdrawn by the applicant on March 8, 2021, via letter by Attorney James Strub.

IWA# 20-12-02 / Brian Baker, P.E. of Civil 1, Inc., on behalf of applicant Jessica Marullo and property owner Michael Dell'Aera, 15 Pike Hollow Road, Stratton, VT / Curtiss Road and Hopkins Road, Assessor's Map 8, Lot 44 / Proposed 3-lot subdivision of 16.7± acres (Date of Receipt by Inland Wetlands Commission 12/17/20.) Mr. Chairman closed the public hearing as the applicant withdrew their application per a letter from attorney Mr. Strub. Ms. Hodza read the letter into the record.

The Public Hearing was, therefore, closed.

### **REGULAR MEETING**

#### **Call to Order, Roll Call, Seating of Alternates**

Mr. Chairman called the regular meeting to order at 7:11pm and took roll call of the present members. PRESENT were Chairman John Favreau, Vice Chairwoman Cynthia Shook, Nora Hulton and Alternate Tara Tanner seated for Mr. Caldwell. ABSENT were Thomas Caldwell, Nancy Binns and Alternate Darin Willenbrock.

#### **Consideration of the Minutes**

Public Hearing and Regular Meeting February 25, 2021 and Special Meeting Site Walk March 7, 2021

Ms. Hulton made a MOTION to approve both minutes as presented, Ms. Shook SECONDED the motion. All were in favor, the MOTION CARRIED and the minutes are approved.

## Pending Applications

IWA# 21-02-01 / Paul Szymanski, P.E., on behalf of the Gally Family Irrevocable Real Estate Trust of 100 Newbury Court, Concord, MA / 39 Arrow Point Road, Assessor's Map 41, Lot 4 / Proposed installation of a stationary dock, stairs, boat lift and swim platform with related appurtenances and removal of specific trees at shoreline. (Date of receipt by Land Use Officer 2/4/2021, Date of Receipt by Inland Wetlands Commission 2/25/2021)

Mr. Szymanski stated the since the site walk in March he had met with Mr. Sadler, who is charged with the inflation of the dock and was on site during the walk. A slight modification was made to the proposal; a 6 inch diameter tree is being proposed to flush cut this so that the legs of the "caterpillar" can sit flush on the ground. Photos were submitted of other docks to show that nothing is attached to the ground. Ms. Hodza asked for Mr. Szymanski to describe the boat lift. Mr. Szymanski stated that the boat lift is similar in that it has pads that sit on the service of the lake itself, sitting stationary. These are battery operated and allow a lift of the boat. Ms. Hodza asked if that was included in the square foot calculation of dock size, Mr. Szymanski said it was not as it does not have a surface to it, as it just has runners that go along the edge of the boat. Mr. Chairman asked if the boat lift and swim dock were a modification. Mr. Szymanski said no. Mr. Chairman asked the only modification was the removal of the tree. Mr. Szymanski stated that it was just to be flush cut; the stump is not to be removed. Ms. Hulton asked if the boat lift sits just as a dock does. Mr. Szymanski verified this. Ms. Shook asked where the motor to raise the boat lift would sit. Mr. Szymanski stated it would either be on the boat lift or on the dock. Ms. Shook verified that this allows the boat to sit slightly above the water. Mr. Szymanski verified stating this was to prevent growth on the bottom of the boat. Mr. Chairman asked how it gets power. Mr. Szymanski stated usually there is a deep cycle battery rechargeable by solar power. Mr. Chairman asked if there was conduit or live charge. Mr. Szymanski stated there was not. Ms. Hodza stated that she had submitted the plans to Edgar Burner of the lake Waramaug Authority, and from strictly a safety standpoint he reported no concerns. Mr. Chairman stated that the gentlemen walking the commission through the dock installation that he had stated there were several (3 or 4) of these other installation in close proximity, either on arrowpoint or north shore road. Ms. Hodza stated that she had not had a chance to look at those and due to the weather some of them are currently removed. Mr. Chairman asked if there had been any historical reference of said docks. Ms. Hodza stated she had not reviewed all the minutes to verify one way or the other. Ms. Hodza stated that the new photos provided aid in understanding the systems, and meeting with the installer helped as well. Ms. Hodza stated she did not see any issue with the application, and stated that the proposed dock is no way is more detrimental (than a regular dock) in disturbing the environment during installation. Ms. Hodza stated that the Lake Waramaug Authority is made up of three members one from Washington, Kent and Warren plus an aofficer. Ms. Hodza stated that she has submitted applications like this to Mr. Burner and after conversations with him it was determined there were no concerns about safety. Mr. Chairman stated his concern was if there were enough feet to minimize motion disturbance to cause potential erosion because of pieces moving and gyrating on top of the surface. Mr. Chairman asked the members if they had any further questions, comments or concerns. Ms. Hulton stated it sounded like a good alternative. Ms. Hodza stated they would be approving the application based specifically on the dock company (Duralite) which has been proposed. Ms. Shook made a MOTION to approve IWA# 21-02-01 per the revised 3/21/21 plan which includes both the removal of one additional tree and the indication of the Duralite dock installation as presented, Ms. Hulton SECONDED the MOTION. A vote was held; all were in favor, the MOTION CARRIED.

IWA# 21-02-02 / Paul Szymanski, P.E., on behalf of the Gally Family Irrevocable Real Estate Trust of 100 Newbury Court, Concord, MA / 39 Arrow Point Road, Assessor's Map 41, Lot 4 / Proposed construction of a single family dwelling. (Date of receipt by Land Use Officer 2/22/2021, Date of Receipt by Inland Wetlands Commission 2/25/2020).

Mr. Szymanski stated a revision was made to the plan to increase the buffer between the patio and the lake. Planning and zoning will be asked for a special permit to preserve a natural vegetative state a minimum of 50% of the area within 100ft of the property line along the lake, in order to accomplish that they added buffering. Initially it was 20ft and now it is approximately 38-40ft. Mr. Szymanski stated they submitted a landscape plan from Designing Eden of New Milford. Along the buffer there is not a large understory, therefore the specific planting plan to supplement that as well as for the rain garden. The rain garden uses only 25% of the capacity for the 100 year storm event. Silt fence, staked hay bales and a layer of core loggers will exist for sedimentation and erosion control to ensure minimal impact. Mr. Chairman stated that due to having just received these proposed plans, he would like to extend the review for 30 days. Mr. Szymanski asked if they would like to be sent PDFs of the proposals or any additional paper copies. Ms. Hodza stated that they received it yesterday and they have ample copies. Mr. Chairman asked if they could see the original buffer versus the proposed one. Ms. Hodza clarified that the only change is the addition of a buffer, or are there any other changes. Mr. Szymanski stated that there was a 30in oak was originally being removed; however it was adjusted to preserve the oak. Additional trees are shown in the plan that already exist but were not indicated on the original plan. Ms. Hulton stated that she had the old proposals. Mr. Chairman clarified that no one has received the new proposal yet, it arrived this evening. Ms. Hodza asked if there are any other alternatives, and why the house is not proposed to sit closer to the drive and further from the lake. Mr. Szymanski stated that it is placed there due to the inherent nature of the planning and zoning regulations which require the protection of 50% of the buffer, the fact that they are maintaining a significant existing vegetative forest land between the lake and the house unlike other properties that have lawn to the edge of the lake. Mr. Szymanski stated this would allow for no run off to the lake, minimized the lawn area and oversized the rain garden.

IWA# 21-02-03 / Hadley Lord / 37 Cornwall Road / Map 50 Lot 8 / Proposed construction of a kitchen addition 8 x 20 feet within 23 feet of intermittent water course (Date of receipt by Land Use Officer 2/22/2021, Date of Receipt by Inland Wetlands Commission 2/25/2020)

Mr. Chairman stated that this property was subject to a site walk, those minutes have been approved. Ms. Shook asked who the engineer on the plan was. Ms. Hodza stated there is no engineer; there is a contractor as it does not require one. Ms. Lord stated that the name on the drawing is the surveyor. Ms. Lord stated that there were questions regarding the drilling of the posts and its impact on the surrounding area. Ms. Lord stated that the contractor showed the metal posts are dug via auger, the same way the platform was built in the wetlands nearby. Ms. Lord stated this does not impact the surrounding area; however they added the silt fence. Ms. Lord stated she is working with Newcastle Home Building in Warren, which is the company who did the work in the wetlands. Ms. Lord provided some images of decks that utilized this method as well to indicate that the foundation floats over the land to cause minimal impact. Ms. Hulton asked if she received approval from Torrington Area Health. Ms. Lord stated that T.A.H. D stated that because of the type of the foundation being utilized the distance to the well is not an issue. Ms. Lord stated she was under the impression that getting approval from wetlands was the first step. A conversation was held on the order of approvals in regards to Torrington Area Health. Ms. Shook asked about the photos of the deck with wire railings. Ms. Lord and Ms. Hodza stated that those are examples to show the kind of construction and its small footprint. Ms. Hulton stated that the silt fencing should be plenty for the particular location. Ms. Hodza stated that due to the area being level it would be sufficient. Mr. Chairman stated that given the sensitivity of the brook and that it's an integral part of the wetlands which feeds into Lake Waramaug, the silt fence is appropriate but he suggested that they bond this in the instance of any potential remediation or unforeseen disturbance to the watercourse and to ensure of the appropriate installation of the silt fence. Ms. Lord asked for clarification. Mr. Chairman explained the bond. Ms. Shook asked if the building had any historic significance within the town. Mr. Chairman stated that the town of Warren does not have commission of historic preservation nor historic district, the modification of properties are at the owners discretion and not subject to rules and regulations of maintaining historical accuracy or presence. A discussion was held on maintaining the integrity of historical homes. Ms. Hulton made a MOTION to

approve IWA# 21-02-03 with a \$2,500 performance bond attached to the application, Ms. Tanner SECONDED the motion; all were in favor. The MOTION CARRIED.

#### Additions to the Agenda

Ms. Shook made a MOTION to add 21-02-04 application to be added to the agenda, Ms. Hulton SECONDED; all were in favor. The MOTION CARRIED.

IWA# 21-02-04 Adam Singer, 369 Lake Rd.

Ms. Hodza stated that she did a site walk of the location of the proposed dock, however at that point the property lines were not clear. The lot is narrow, 56ft wide approximately. The regulations will dictate where the dock can be placed and currently there is no place to easily attach the dock. The proposal is to drop in a granite block and construct a cedar dock. Subsequent to the walk Ms. Hodza stated she had seen stakes had been put in and lines verified in field however have not yet received a construction sequence or indications of plans to protect the lake and wetlands. Mr. Chairman stated as such the matter has been added per requirements however will be tabled until the meeting in April. Ms. Shook made a MOTION to table the application, Ms. Hulton SECONDED, all were in favor; the MOTION CARRIED.

#### New Applications

Ms. Hodza stated that a partial application was received however due to it being unfinished they will not hear the application tonight. The application will be coming to the commission soon, for 27 Cornwall Rd. with a proposal to bury overhead power lines.

Requests to Add Matters to Agenda (Includes applications received by the Land Use Office through March 24 at 4:00 pm, 2/3 vote required)

None.

#### Other Business

Proper Elliott Davis of 5 Mine Hill Road, Roxbury, Connecticut / 152 Curtiss Road, Map 7, Lot 15-1 / Construction of 3-bedroom single family dwelling, pool, and extension of existing non-permitted driveway. (This application was to be received tonight; however, new evidence has removed jurisdiction of Inland Wetlands. See letter from applicant's engineer dated March 22, 2021.)

Ms. Hodza explained that this was added to "other business" as there was an application made to her office which would have been received tonight by the commission, however in the interim an amendment was submitted by Mr. Szymanski. The initial application had a very small portion of the illegal driveway that is within the 200ft of the wetlands zone. However the driveway is down gradient of the wetlands. The reason it would come before the wetlands, is because it was in the upland review area and they would need to adjust the apron. Subsequently, March 22, a revised proposed driveway plan showing the comparison was received. Ms. Hodza read the letter into the record. Ms. Hodza stated that the driveway as it stands is not a threat to the wetlands and that from a zoning standpoint, certain erosion and sedimentation controls are in place if they do activity at that driveway but it is down gradient of the wetlands and the commission does not have jurisdiction. Mr. Chairman stated that the original application which was approved in 2015 had the driveway significantly closer and up the gradient closer to the wetlands area. The current driveway is further and not within the upland review area.

Inland Wetlands Officer's Report (From Feb 26, 2021 to March 25, 2021)

Ms. Hodza stated she received a call on March 18 regarding property 65 Mountain Lake Road, Scott Thyberg. Ms. Hodza found on the site a number of trees had been cut clearly within the regulated area on Mountain Lake Rd. The trees had clearly been recently cut and stumps were left. Ms. Hodza issued a notice of possible violation to the owner via mail and email. A response was received and Mr. Thyberg explained they were dead Ash trees. Ms. Hodza followed up that while it may be permitted, these activities are regulated. Mr. Thyberg apologized. Ms. Hodza thanked the community for being the eyes and ears.

Ms. Hodza stated driving by 53 Curtiss Road and witnessed heavy machinery nearby the stream, woodchips ground up, and some drilling for the conduit. The contractor had not called Ms. Hodza prior to beginning construction. There was no apparent immediate threat to the wetlands however it was of great concern that the silt fences had not yet been put in place. A call was made to the contractor and the protective measures have since been installed. Ms. Hodza stated that Mr. McMorrow stated that the pool has changed shape, and the application may be coming back.

Ms. Hodza stated that the former Rooster Tail, 11 Cornwall Rd an approval was given for removal of dead Ash trees to Kit Lundberg, landscaper who is removing invasives. Ms. Lundberg stated that some of the work was not on the property (11 Cornwall Rd) itself however along the bank of the stream, just outside the property technically on the property of Mr. Charrin and the KW trust. All work to be done by hand and silt fence to be installed.

27 Cornwall Rd, Mr. Charrin was conducting additional work to remove overgrowth. In the future he has plans to clear more vegetation. Ms. Hodza stated he was within his rights to maintain the property.

Ms. Shook stated she had discussed Ash trees and the Ash boring beetle with the DEP. The DEP employee stated that removal of dead ash trees is still somewhat of a concern of where the wood from the trees is removed as it can spread the infestation of the ash boring beetle. Ms. Hulton stated while she was not an expert she noticed the warnings of transporting firewood across state lines have been eliminated. Mr. Chairman stated that the beetle attacks the tree and the tree loses its ability to fight off root rot, so even in tree that are semi-leaving but are half dead they can often uproot or break off at the root due to the root system failing as well. A discussion is held on the process of the way the ash tree dies.

### **Communications Received. None.**

### **Public Comment**

Mrs. Tammen 50 Curtiss Road: Mrs. Tammen thanked Ms. Hodza for her diligence and stated that she often sees work in her neighborhood and is glad to see the commission examining each. Mrs. Tammen stated that the pool changes need to be addressed looked at carefully and suggested a bond. Mrs. Tammen stated that she had seen trucks coming down the hill with stumps and have heard noises of tree cutting on Strawberry Lane.

Mr. Tammen 50 Curtiss Road: With regard to 152 Curtiss Road, he stated he was surprised the commission accepted this as he did not see slopes and elevations provided. He stated he was concerned that across the street from the property there was wetlands.

Ms. Hodza stated that the jurisdiction of the inland wetlands commission is only within 100ft of the wetland or watercourse, if the grade is increased by 5% then that can be increased to a maximum of 200ft. The issue is that past that distance there is no way of knowing the way the water travels. Ms. Hodza stated there is no jurisdiction to enforce or require applications that are not reviewable within the jurisdiction. Ms. Hodza stated that there is topographic indication on the map provided by Mr. Szymanski, and after independently visiting the site any work needing to be done will be able to be done through zoning as there exist zoning regulations for erosion and sediment control.

Mr. Tammen stated that the proposal provided online did not include topography and elevation and he would like to see them.

Ms. Hodza stated Mr. Tammen can come to the office during any open hours and she could show him how to utilize the website to see the topography.

Mr. Tammen stated that there are wetlands across the street. Ms. Hodza stated that those maps are extremely general, on the NRCS website will reiterate that these maps are not accurate at a certain scale. They can identify various soil types especially in large low lying areas, but the onus is on the property owner to have a soil scientist determine the soils that exist. This was done on this property. Ms. Hodza stated that the purpose of public comment is not for a back and forth discussion however it is important that the public know that the commission is guided by state and town regulations and if jurisdiction is not within an area, that would mean there is not a significant threat to the wetlands.

Mr. Connor stated the Lake Waramaug Association had asked him to take a close look at the application for 39 Arrow point road. Mr. Connor stated he sent comments to Ms. Hodza and he believed that they intended to revise plans for the better and he looked forward to seeing the revisions.

#### 10. Adjournment

Ms. Shook made a MOTION to adjourn, all were in favor; the MOTION CARRIED. The meeting adjourned at 8:26pm.

Respectfully Submitted,  
Melissa Woodward  
Recording Secretary

Dated: 4/7/2021  
Video Recording of Proceedings:

[https://zoom.us/rec/play/TlaPhWmEUoThzGnj0bC3xC4-lGcdD6d5Ce\\_zu4kDk0z2YtnQnidwTfbabXRCyqlW84hEOuf9JiwRL9\\_C.zjQYIWd3\\_hdt292a?continueMode=true&x\\_zm\\_rtaid=ddIaTgc7Qou\\_OctdS0SnCg.1617716246960.733e8d0c121eddd6328c2b1830074b3c&x\\_zm\\_rtaid=385](https://zoom.us/rec/play/TlaPhWmEUoThzGnj0bC3xC4-lGcdD6d5Ce_zu4kDk0z2YtnQnidwTfbabXRCyqlW84hEOuf9JiwRL9_C.zjQYIWd3_hdt292a?continueMode=true&x_zm_rtaid=ddIaTgc7Qou_OctdS0SnCg.1617716246960.733e8d0c121eddd6328c2b1830074b3c&x_zm_rtaid=385)