



INLAND WETLANDS & CONSERVATION COMMISSION

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Public Hearings and Regular Meeting Minutes

Lower-Level Meeting Room, Town Hall
and via zoom video conference

Thursday, July 22, 2021 – 7:00 pm

Call to Order, Roll Call, and Seating of Alternates

Chairman Favreau called the meeting to order at 7:06 pm.

PRESENT were Chairman John Favreau, Vice Chairwoman Cindy Shook, Nancy Binns, and Alternate Tarra Tanner. **ABSENT** were Thomas Caldwell, Nora Hulton, and Alternate Darin Willenbrock. **ALSO PRESENT** was Richelle Hodza, Inland Wetlands Officer. A number of people from the public were present both in person and via Zoom (not more than 25-30 in total).

The Chairman seated Alternate Member Tara Tanner for Commissioner Holton.

As a matter of public record Chairman Favreau stated that there are members of the public as well as members of the commission who see his role as a director of the lake Waramaug Task Force as a potential or perceived conflict of interest. Mr. Favreau stated that he did not agree with the point of view, as both organizations have the intent of perseveration of both the lake and the wetlands; however, in consideration of any potential perception around a conflict of interest he had resigned his board seat on the Lake Waramaug Task Force as of 3 pm today in order to maintain his role as chairman of the Inland Wetlands Conservation Commission, on which he has sat on for a number of years.

PUBLIC HEARINGS

Public Hearing: IWA #21-06-01 / 85 Curtiss Road, Assessor's Map 7, Lot 19 / Paul Szymanski, P.E. of Arthur H. Howland & Associates, P.C. for Davidson and Elizabeth Goldin / Proposed construction of a single-family home with related appurtenances including driveway, pool, spa, pergola septic well, demolition of existing house and capping of existing well. (Received by Commission 6/24/2021, Special Meeting/Site Walk 7/12/2021)

Mr. Szymanski, representing the applicant, presented to the commission his proposal and stated the highest point of the property is on the northern end of the property, draining in a southerly direction. There is an existing driveway serving and existing cottage and garage. The proposal calls for removal of those structures and construction of new family home. The wetlands that

exist on the site are in the northeast corner and the westerly edge of the property where there is a watercourse that runs within the wetlands system itself. Due to the topography the upland review area does increase greater than 100ft and it is mapped in the submitted documents. The proposed modification of the driveway is in the entrance and upper portion; the entrance currently has asphalt within 3ft of the wetlands and is difficult to turn right into the site. Modification is to increase distance from wetlands and make the right turn more accessible, it will be shifted 20ft. In order to accommodate this and minimize disturbance in the upland review area, they have proposed a retaining wall in the up-gradient side of the driveway, approximately 120ft long which will prevent them from grading a significantly larger area within the upland review area. Mr. Szymanski stated that the wall goes along the driveway and goes in a northwesterly direction to the proposed home. On the down gradient side of the proposed driveway, there are staked hay bales, positioned parallel to the contour. They added wings to the staked hay bales to capture any minor sediment. Up gradient of the neighboring property is a double row of staked hay bales. The application is proposing a 5-bedroom septic system; approved by Mr. Rossi with Torrington Area Health District, as well as proposed home, patio, pool and pergola. Storm water from the roof will flow into a rain garden, sized for 100-year 24-hour storm event. The driveway will sheet flow as it does today into a very established vegetated down gradient area. Chairman Favreau referred to the site walk stating that it was obvious there are two very large trees, approximately where the retaining wall was proposed, and it was indicated they would be removed. Chairman Favreau stated that there was significant concern that the proposal was removing a natural retaining wall and replacing it. Chairman Favreau asked if it was necessary for the modification of the driveway. Mr. Szymanski stated that they moved it as minimally as possible. Chairman Favreau asked if it could be moved further away. Mr. Szymanski stated that for every 15 to 20 ft it drops another 2ft. so to make the maximum grade of 15%, it would be necessary to cut an additional 2ft throughout. That would lead to additional grading on the down-gradient and up-gradient sides. The trees are at the edge of the retaining wall, so if it was shifted, it would still be in the dripline of the trees. Mr. Szymanski stated he could plant 3- to 4-inch oaks post construction to promote a canopy in that area. Chairman Favreau stated that the roots would act as a retainer, Mr. Szymanski stated that they would now be replaced by a physical structure. Ms. Binns asked if it was possible to keep both. Mr. Szymanski stated it was not possible. Ms. Binns asked if the stumps would be pulled up. Mr. Szymanski stated they would. Mr. Szymanski stated he could submit alternative plans to specifically show there was not a way to keep the trees to satisfy the concern. Chairman Favreau stated if they can be properly indicated on the map that would be helpful; Chairman Favreau stated that during the site walk there was evidence of significant runoff approximately halfway, into the road. Mr. Szymanski had Chairman Favreau point to the location on the map. Chairman Favreau asked if driveway modification will increase the issue and is there something that can catch or retain water as it flows off a much wider and longer driveway. Mr. Szymanski stated he could make some leak-offs that could go parallel to the contour and promote infiltration for the storm water runoff.

Ms. Binns asked how large the trees Mr. Szymanski stated he could plant post construction were and how large the existing trees were. Mr. Szymanski stated the 3-4 inch was the diameter of the trunk he could plant and the existing trees are very large. Ms. Binns asked if they were oaks. Mr. Szymanski stated he was unsure, but he could find out. Chairman Favreau stated that Commissioner Holton, who was not present, had sent an email with her concerns regarding the removal of trees in the parameter of the proposed drive.

Ms. Hodza read the text message she had gotten from Ms. Holton regarding same.

Mr. Szymanski asked for clarity on which trees Ms. Holton was concerned about. A discussion was held regarding this, and Mr. Szymanski stated he would like Ms. Holton to mark them on the map. Chairman Favreau asked for indication of ledge and areas of ledge. Mr. Szymanski stated that there is existing exposed ledge in the upgradient side of the driveway and parking area as well as the upgradient side of the home. It is indicated with cross hatch on the map. Mr. Szymanski stated the basement was a walk out. The Chairman asked about specifics on the blasting that would be done. Ms. Hodza asked what the greatest engineering challenge would be for the particular site. Mr. Szymanski stated that there was not a great challenge with the site as they were utilizing the existing drive, and more or less maintaining the grade that is there. They would not be opening up large portions of the site, the impervious surface will be 5.4%, maintaining 82% of the site in a natural state, undisturbed. The fact that there is ledge there is less soil to migrate.

Ms. Hodza asked how tall the retaining wall for the pool area was. Mr. Szymanski stated he would find out.

Chairman Favreau asked if there was an additional drawing for the retaining wall. A brief discussion was held on the retaining wall. Mr. Szymanski stated that because he had separated the driveway from the wetlands system, with the concern about Curtiss, is creating a shallow swale on the upgradient side of the driveway and create a water-quality basin with a high level of overflow over the watercourse to permeate the infiltration on the up-gradient side. Chairman Favreau asked more specifically where the runoff was. Mr. Szymanski utilized the map to show the contours and explained his idea to capture runoff draining toward Curtiss and bring it in to a high-level overflow. Mr. Szymanski explained the pitch of the driveway and the infiltration trenches. Chairman Favreau asked if there was a way to ameliorate and of the runoff. Ms. Shook asked if you could extend the wall. Mr. Szymanski said he would look into ways to address the other runoff and stated that he would not extend the wall. Chairman Favreau asked how long the existing driveway has been there, Ms. Hodza stated that the house was built in 1939. Chairman Favreau asked if the existing house and garage would be demolished. Mr. Szymanski stated that was true. Chairman Favreau asked if the pool and pergola were to be served by a retaining wall, and if the pool was an above ground pool or if it needed to be dug out as well. Mr. Szymanski stated the base of the pool is close to the existing grade on the down gradient side. Ms. Hodza clarified the material for the septic system would be brought in. Ms. Hodza asked what would happen to the

rock that is to be blasted and if it would be brought off site. Mr. Szymanski stated that some would be used for driveway base. Ms. Hodza asked if they planned to crush it on site, and that she thought that was not allowed. Mr. Szymanski stated he would ask [the person doing the work]. Ms. Hodza asked how many days of blasting there would be. Mr. Szymanski stated he was unsure. Ms. Hodza stated that they would need to put pull offs on the driveway which they would need in the new plan. Mr. Szymanski stated that in the upland review area disturbance perspective the activities that we have associated with the driveway do not drain toward the wetlands. The house itself, there are patio sheet flows, however they go downgradient and do not discharge to the wetlands. Mr. Szymanski stated the only area that drains toward the wetlands is the small area of grading west of the patio. Ms. Hodza asked why the current house site would not be the new house site. Mr. Szymanski stated it was personal preference of the owners. Mr. Szymanski stated that the existing home is 46ft from the wetlands, and the proposed home is 108ft from the wetlands. Ms. Hodza asked if there was a need for anti-tracking pad at the bottom of the driveway. Mr. Szymanski stated they could. Ms. Hodza asked if the culverts indicated were existing or proposed, Mr. Szymanski stated they were existing. Ms. Hodza stated that the entrance to the driveway as it is, is a sharp turn and a one-way entrance. Ms. Hodza stated that the trucks during construction may pose a risk for erosion and asked if the antitracking pad would help with that. Mr. Szymanski stated it would and as part of construction they are not removing the driveway until the end, they will utilize the existing driveway as its stable. Ms. Hodza asked if there was an infiltration analysis. Mr. Szymanski said they had conducted one and would provide it to Ms. Hodza.

Chairman Favreau opened the meeting for public comment and questions.

Katia Zero, 52 Mountain Lake Rd, stated her concern was that the only way she can access her house is on this road as it's a dead end. Ms. Zero stated that she has seen many neighbors clearing trees from their property and that the trees also affect the wetlands. She was concerned about blasting and how it affects the water and wetlands as well. She asked the commission to not just consider one parcel at a time but the overall affect of the other lots around them, and how the massive clearings in each lot affect the wetlands and waterways. Ms. Zero requested an independent study of the wetlands in the area as the runoff is tremendous since land nearby has already been cleared. Ms. Zero thanked the commission.

Adam Crane, 52 Mountain Lake Rd. Mr. Crane stated that the large trees which were addressed by the Chairman, he agreed, were a natural retention wall. Mr. Crane stated that he felt that it would be important for someone like Sean Hayden present on how important a large tree such as these are as a water management system that are irreplaceable. As soon as you remove a large mature tree as this which can maintain thousands of gallons of water, you have to manage the water. Environmental impact and mitigation of environmental impact is often proposed flip-pantly however rarely looked at with the real numbers that are behind impact versus mitigation. Mr. Crane stated that a more circumspect approach to changing the land in the town would be

beneficial to all the residents of Warren. That is dependent on the regulations, the commissions, and the laws in the state. Mr. Crane thanked the commission.

Barbara Cook, 71 Curtiss Rd. Ms. Cook stated that the original builder in the 1920s had dynamited as much as he could but the basement is still not more than 6ft. Ms. Cook stated that in the 2000s when they were looking to put an addition on in the back, they were told they absolutely could not blast they would have to excavate as much as they could and that would simply be as much area as they had to use. Ms. Cook stated she was very concerned about the amount of rock ledge to be blasted, not only on the impact on wetlands but on the impact on adjacent homes. Ms. Cook asked if there was a professional assessment done on the affect of blasting on nearby homes. Ms. Cook also stated she was concerned about the trees but was mainly concerned on the impact of blasting on nearby existing structures. Chairman Favreau stated that Ms. Cook had brought up a reasonable concern on the affect of blasting. Mr. Szymanski stated that he could see if the blasting guy could come to the next meeting. Chairman Favreau stated that they would be interested in if any seismic activity could affect nearby homes, exactly how much is being taken, how it will be done and if the gradient of the particular property has specific ramifications on how the property and environment will be affected. Mr. Szymanski stated he would follow up with the professionals meant to do said work.

Elizabeth Gildersleeve, 77 Curtiss Rd. Ms. Gildersleeve stated she was mainly concerned regarding the extensive blasting and how it may have an affect on her well, foundation, her neighbors wells and foundations and how it would impact the lake. Ms. Gildersleeve stated that seemingly the entire top of the hill would need to be blasted to put the house atop there, and she requested that the commission hire an independent assessor to see what the effect would be. Ms. Gildersleeve stated that she also would like to state her concern on the two trees which are proposed to be removed as they play an important role in the water management.

Sean Hayden, executive director of the Lake Waramaug Task Force. Mr. Hayden stated that he was looking forward to reviewing the revised plan, specifically the erosion and sediment control plans as well as the storm water management plan. Chairman Favreau asked if there were any specific concerns. Mr. Hayden stated he had a copy of the original plan however based on Mr. Szymanski's run through he could tell there were many adjustments. Mr. Hayden stated he had not yet seen the new plan and he would like to withhold comment until he could look at them.

Hermann Tammen, 50 Curtiss Rd. Mr. Tammen stated that in referencing the map on the Warren website, he wondered why the house needed to be so far to the West. Three quarters of the whole activity will be in the regulated area however there is enough space in the East to conduct construction. The northwest corner of the house, a few feet from that is all rock outcroppings and wondered why the house would be so close to the rock. Mr. Tammen asked how long the driveway was. Mr. Tammen stated that the pull offs were missing on the plan and that on the site walk

it was noted there was significant runoff already, and with the extension of the driveway further there may be more runoff created.

Chairman Favreau asked if Mr. Szymanski wanted to address concerns on the siting of the house. Mr. Szymanski stated that the construction zone was chosen based on the fact that it was already cleared, if they moved 60ft to the east it would be moving it an area that would require clearing. Mr. Szymanski stated that he could move the entire site out of the upland review area but that would move construction to opening up to the next-door property and clearing on the downgradient side, when there is already clearing existing. Mr. Szymanski stated he could provide that as an alternative as well.

Chairman Favreau stated that given the fact there are open questions regarding the application they would leave the public hearing open.

Ms. Hodza pointed out there were two requests for an independent review.

Chairman Favreau stated that he felt an engineering review of the proposed activity and the blasting if that's under their purview as well as an evaluation specifically of the runoff at the center of the property into Curtiss rd. would be warranted. Chairman Favreau stated the runoff was noted on the walk and reiterated by a resident. Mr. Szymanski stated he would have to come up with some alternative analysis regarding the trees. Chairman Favreau stated it was not only disturbance in terms of physical disturbance of the environment but also the rural character of the land. Chairman Favreau stated that because the house is obscuring the rock ledge, they would need to understand how much exactly of the ledge is being taken down. Chairman Favreau stated they required better delineation of exactly what ledge would be blasted and to what depth *et cetera*. Even though it is outside of the review area because it runs downhill it can affect the wetlands.

Sean Hayden stated that it would be helpful if the applicant provided a longitudinal cross section of the hillside through the middle of the house and through the driveway so that they can see the depth of the impacts. Mr. Szymanski said he could do that.

Ms. Hodza stated that a review by an engineer on behalf of the Town would be the financial responsibility of Mr. Szymanski's client. Mr. Szymanski requested that two bids be sought in order to compare the costs, since his client would be paying. Ms. Hodza agreed to get two quotes.

Ms. Binns made a MOTION to continue the public hearing at the next meeting on August 22nd, 2021. Ms. Tanner SECONDED the motion, a vote was held, all were in favor. The MOTION CARRIED.

Public Hearing: IWA #21-06-03 / 37 Brick School Road, Assessor's Map 21, Lot 24-02 / Dennis McMorrow, P.E. for Terry Shook and Cynthia J. Stilson-Shook of 236 Brick School

Road / Construction of a proposed single-family dwelling and barn. *(Received by Commission 6/24/2021)*

Ms. Shook recused herself from the second public hearing and joined the public. Chairman Favreau opened the second public hearing for the evening. Dennis McMorrow, Berkshire Engineering, representing the Shook family was present. Mr. McMorrow explained the lot is a 6 acre lot, brick school road is on the west side of the map the wetlands are highlighted on the map, starting in the northwest there are wetlands and on the east side, south east and southern side of the property. The proposal is for a house and a barn 110 x110 because it includes an 80 X 110 ft indoor riding area. The family has 16 horses and wishes to have a 16-stall barn. The large grey rectangle includes the barn and indoor riding area. The dwelling is an 1800 sq ft, 2-bedroom home. To the east of the dwelling, test pits were dug for the septic. Mr. Rossi, Torrington Area Health District, gave conceptual approval for the two-bedroom septic. Mr. McMorrow stated that it was conceptual approval because the septic is located 4ft from ledge, so after they have to strip, fill and re-test before getting full approval. There is an existing gravel driveway coming between the wetlands on the north and the south, the proposal plans to use that driveway with different access points around the barn. There are parking areas for truck trailers and different equipment. Mr. McMorrow stated there are a lot of wetlands on the property, it appeared that certain areas like the area in the south and a portion of the area in the east were excavated by a previous owner which has created further wetlands. The Shook's have owned the property for 20 years, the property is fenced, the horses have been kept on the parcel often. Chairman Favreau asked for indication of the fence location. Mr. McMorrow stated it was on the adjoining property, the Shook's own parcel 37 and 39, the white fence is located on 39. Chairman Favreau asked where the shed was, Mr. McMorrow stated it was in the middle of many trees and in disrepair and is slated to be removed. Chairman Favreau asked about the stone walls. Mr. McMorrow stated there was one on the east side of the barn. Chairman Favreau stated there was a second one. Mr. McMorrow stated that the surveyor did not pick it up and he did not recall seeing one. Mr. McMorrow stated they made a point to locate the visible ledge and it is shown in the shaded areas. Mr. McMorrow stated there would be no basement in the barn and dwelling and there would be no blasting. Mr. McMorrow stated that he would guess they would pin the barn to the ledge and make a frost wall. Ms. Tanner asked about the flooring in the barn, Mr. McMorrow stated it would be dirt/sand. Ms. Hodza reminded the public and the commission that there needed to be silence during the presentation and no side conversations between commission members. Ms. Hodza asked that the commission allow Mr. McMorrow to complete his presentation before asking questions. Mr. McMorrow provided a copy of Mr. Rossi's conceptual approval to Ms. Hodza. Mr. McMorrow stated that he had received letters from several neighbors on Brick School Road. Mr. McMorrow stated that one of the letters referenced concerns regarding manure. Mr. McMorrow stated that the Shooks plan to use a manure dumpster, and that would have to be added to the proposal. The second item of concern in the letters is that there is a perception that this is for a commercial use. Mr. McMorrow stated this proposal is for personal use only, the Shooks rescue horses and have 16 horses. Mr. McMorrow stated there would be no shows, no lessons and it is

not a commercial activity. Mr. McMorrow stated there would be normal traffic for a barn; hay deliveries and a truck to periodically pick up the manure dumpster. The third item of concern in the letters is that of the effect of the building and barn on the wetlands. Mr. McMorrow stated that all the proposed work is located outside of the wetlands, they moved the proposed barn around the property and this location is the least intrusive to the wetlands. Mr. McMorrow stated that the horses have free range of the properties 37 and 39 currently. Mr. McMorrow stated that the manure will now be lessened on the property/near and or on the wetlands as they would be often in the barn which will remove the manure via dumpster. Mr. McMorrow also stated there was a natural buffer between the brook and the area the horses would be kept. The brook runs from the south side of 341 and north. Mr. McMorrow stated it was 3 miles away from the Housatonic river. Ms. Binns asked where the buffer existed. Mr. McMorrow stated it was 50-75ft of woods. He also stated there was a tremendous swamp between 39, 71 and 73 where the brook flows through and continues on. Mr. McMorrow stated another concern in the letters if this would be where the Shooks reside, and Mr. McMorrow stated that had nothing to do with the application at hand. Ms. Binns asked if the fence was strong enough to keep the horses in. Mr. McMorrow stated that it had been doing so for 20 years. Ms. Binns stated she had seen 5 or 6 horses on the property but not 16. Mr. McMorrow stated they were likely on the other property. Chairman Favreau asked how much impermeable surface this plan represents. Mr. McMorrow stated 15% of the 6 acres. Chairman Favreau asked if the driveways were gravel, Mr. McMorrow looked for his figures and found that his exact number was 11.9%, including the processed gravel for the drives. Chairman Favreau asked if there were currently trees and vegetation and what activity would be happening. Mr. McMorrow stated the area was lightly wooded, and using the map he showed different contour locations and exposed ledge noting they set the barn at grade. Mr. McMorrow stated there would be some fill between the frost wall to bring the grade to floor elevation. Mr. McMorrow stated that the property was very flat, less than 3% grade from west to east. Ms. Tanner asked if the brook was a water supply while the animals were outside. Mr. McMorrow stated that the brook was well to the east in the tree-line. Chairman Favreau asked that the brook was not on 37. Mr. McMorrow stated that it was on the east side of 37 and right through 39. Ms. Tanner asked if the significant wetland beyond was on someone else's land. Mr. McMorrow stated that was true. Mr. McMorrow stated it was a perennial brook. Ms. Hodza asked if the proposed manure dumpster would be located where the topsoil stock pile is currently located. Mr. McMorrow stated they would like it closer to the barn. Ms. Hodza stated they would then need to extend the driveway. Mr. McMorrow stated they would need to figure out how to access the dumpster and he did not have an answer specifically for that, but it may involve extending the driveway or moving the house. Chairman Favreau asked how the ledge under the barn would be addressed. Mr. McMorrow stated the sand floor elevation was higher than the ledge. Chairman Favreau asked if fill would be brought in. Mr. McMorrow stated that was true. Ms. Hodza asked where the peak of the roof would be. Mr. McMorrow stated they do not have an architectural image. Chairman Favreau stated they would need to know how the runoff would be handled from the barn roof. Ms. Hodza stated that there were 3 roof drains. Mr.

McMorrow explained the possible roof drains depending on the roof peak. Ms. Hodza stated that she was concerned about the size of the roof and the roof runoff with just the 3 drains and asked if there may be a need to slow the drainage down at all. Mr. McMorrow stated they normally put splash pads 3x3 at the end of each pipe and that the pipes were 6 inches in diameter. Ms. Hodza asked if there was a calculation tht can be done to see how much water would need to be dealt with. Mr. McMorrow stated that he could. Ms. Binns asked if there would be fill brought in for the dwelling as its on slab. Mr. McMorrow stated they would bring to grade, using the same construction technique with a frost wall. Ms. Hodza stated that she felt a structure as large as the barn would require a slab. Mr. McMorrow stated that it's a steel building and the foundation is designed for the weight and it is not required to have a slab. Chairman Favreau opened the meeting to public comment.

Adam Crane, 52 Mountain Lake Road; Mr. Crane asked the commission if they do or if they could make any distinction between commercial and commercial scale. Ms. Hodza stated that the charge of this commission is to assess and weigh the impact on the wetlands, it is not charged with determining use. That would be a question for zoning and therefore not an appropriate question for this commission to consider. Mr. Crane stated that he would like to alter the question to phrase it in terms of environmental impacts, can you reasonably make a distinction between commercial activity and commercial scale activity; is there a difference as it applies to environmental impacts. Ms. Hodza stated that they are given the size of the house, barn, horse stalls and number of horses. Ms. Hodza stated that of course scale matters to the commission in as much as it impacts the wetlands. Chairman Favreau stated that in the regulations under which they operate, agricultural use often takes precedence over the effect of the wetlands. Ms. Hodza stated the town of Warren has an ordinance called the Right to Farm. Effective November 9, 2012, except as otherwise specifically defined the words agriculture and farming shall include raising any agricultural commodity including horses. Ms. Hodza read the ordinance for the record.

Debbie Ouellette, 11 Brick School Road; Ms. Ouellette asked Mr. McMorrow for clarification on the mapping where the wetland was located. Ms. Ouellette asked if the space of the drive was wide enough for the dumpster to fit, as well as have a truck access (relative to parking and turn-around space) the dumpster and remain a safe distance from the wetlands. Ms. Ouellette also asked that the commission consider that the lack of slab in the barn would also mean that fluids would be going into the ground and how they would be dispersed through the property. Mr. McMorrow stated that the driveway was 12ft wide, the hay truck and dumpster pick up trucks would be able to travel on that driveway. Mr. McMorrow stated that around the area on the east side, the gravel area, is 60ft wide and the other area south of the barn is 40ft. Mr. McMorrow stated that there was extra room left to be able to maneuver trucks for turn around. Mr. McMorrow stated that the stalls are on dirt and the sawdust and shavings are removed. Mr. McMorrow stated that the horses may urinate in the arena and that would go into the ground.

Celia Ucciardo, 31 Brick School Road. Ms. Ucciardo read her letter. She then also stated that would like to add that she had understood the applicants proposal remain consistent. Ms. Ucciardo stated that initially she believed the proposal was for a house and small barn and it has adjusted to a much larger barn than initially led on. Ms. Ucciardo asked why there was not a sign put up for the public to see and no registered letters. Ms. Ucciardo stated that in 2015 Ms. Ucciardo wanted to put a porch onto her home and she had to hire an engineer and compose registered letters to neighbors. Ms. Ucciardo stated that a site walk was denied, and she felt that there was bias based on the fact that the applicant is on the commission. Ms. Ucciardo suggested to the public they sign up for alerts. Ms. Ucciardo stated that last year on Facebook Ms. Shook wrote that she intended to start a business.

Ms. Hodza stated that according to Section 9 of the inland wetland regulations, registered letters are not required nor is a sign, however publishing notice of the hearing twice in the newspaper is necessary. Mr. McMorrow stated that he had reviewed the regulations as well and there was nothing stating that letters were required.

Mr. McMorrow reiterated this property does not drain to the lake, it is 3 miles to the Housatonic River, is not within 100ft of a reservoir or 50ft to a public water supply, the Shook's own 16 horses, even though they may not all be on this property, and he is not aware of the statements made on Facebook however many years ago. Ms. Binns stated that at the last meeting Ms. Shook did comment on the dwelling being necessary to have a barn, so it may have been a misunderstanding. Chairman Favreau stated that the purpose of the commission is to evaluate the affect and significance of the impact of the proposal on the wetlands. Chairman Favreau stated given that the activity is such a large percentage within the regulated area it warrants a public hearing, and the commission needs to determine if it's a significant disturbance in that area. Ms. Hodza stated that the application before us consists not only of the forms and supporting documents that clearly state there is a house and a barn, but also, the Commission must consider how construction, use, and maintenance of the buildings may impact the wetlands. Ms. Hodza stated that whether or not a house was required in order to establish a primary was a zoning issue.

Chairman Favreau stated that areas of interest where the commission is requesting further information and/or clarification: we have an understanding that there is not a slab, and a slab foundation, to the extent there is roof water runoff and in which direction and how that is mitigated, what the percentage infiltration, the necessary measures to manage that. Chairman Favreau stated they understood what level of percentage of impermeable surface will be created, for again, potential immediate runoff and the gradient to which that runoff would flow into. It would be helpful to have a measurement from the activity to the active stream, which is off the property, but understanding how far this is from the proposed activity and a measure of understanding the level of integration within the natural buffer zone and what exists there now, and what may be potential activity. Ms. Hodza stated that given the public interest and the concerns that she suggested the commission have a special meeting with a site walk of the property. Ms. Hodza stated

that the building is very large, and that she was remiss in not seeing that it did deserves a site walk. Chairman Favreau asked if the flags he had seen on the property were the barn, well and septic staked out. Mr. McMorro stated that he had not placed them; the Shooks had placed the flags for the barn four corners, and he had located those flags to put the barn on the land, the septic was marked with a separate flag. Chairman Favreau stated that walking the property would give a better understanding of the scale of the build, the property, and the grade.

Chairman Favreau stated that they would keep the public meeting open and schedule a site walk.

Trisha Brown, 73 Brick School Rd; Ms. Brown stated that she believed a site walk was very important and agreed with the commission to do that. Ms. Brown stated she believed that 39 was for sale and she asked if the applicants sold this property would they have enough land for the 16 horses. Ms. Brown also stated that without a slab under the stalls, having 16 horses creating urine and feces seeping into the ground, would that not go into the water eventually.

Mr. Terry Shook, from the audience, stated that rubber mats are installed that keep the urine and feces from going into the ground.

Mr. Ouellette, 11 Brick School Rd. Mr. Ouellette stated that he used to have a deer farm in the early 90s. He stated they had about 20 deer in a fenced in 8 acres. Mr. Ouellette stated that within 3 weeks, the ground was bare. He asked if the horses would have free range of the property; he stated that the land would be bare if 16 horses were kept. Mr. Ouellette asked if there would only ever be 16, or if more horses would be added. He also asked where the horses were pastured and stalled currently. He stated the horses may like the area nearest to the brook and congregate there. Mr. Ouellette asked how the animals were going to be controlled and maintained on the property.

Trisha Brown, 73 Brick School Rd. Ms. Brown asked if there is any recourse as neighbors if the number of horses increases and or if the barn turns into a commercial business. Ms. Hodza stated that Warren has no such regulation regarding the number of horses allowed on a property, and the commission cannot imagine what might happen in the even that a property becomes commercial. The recourse however, if a property became commercial, zoning enforcement action could be taken at that time. Ms. Tanner asked about Litchfield's regulations regarding horses and cows. Ms. Hodza stated she did not know the answer.

Katia Zero, 52 Mountain Lake Rd. Ms. Zero stated that seemingly the farming laws in CT are very strong, so while Warren may not have a regulation however the state may have regulations specifically regarding acreage and animals. Ms. Zero stated that the state regulations would supersede the Town's.

Ms. Hodza stated that she has yet to find a State law limiting the number of livestock one can have; however she would continue to research. Ms. Tanner [who comes from a family of farmers

in Warren and has personal knowledge related to farming] stated that there are things called waste management practices that a farm has to adhere too. Ms. Tanner stated that many people use a carting system, like the dumpster proposed here, some bring to compost location etc. Ms. Tanner stated that as long as the waste management practices are adhered to, they work very well.

Peter Willcox, 71 Brick School Road, stated that he is a registered architect and has given expert testimony before planning boards, having worked in Connecticut, New York, New Jersey, and Massachusetts. He stated that this is not his area of expertise, however, he had done research into the matters at hand and had a number of questions that he felt needed to be answered since there are marshlands and ponds in the area, including on his own property nearby. First, he raised the question of the roof drains, echoing the question raised for the applicant's engineer by Ms. Hodza. He felt that a six inch pipe would be like a fire hose during a heavy rainstorm. Second, he stated that the owners' present operation at 268 Brick School Road is in fact relevant, despite some people saying that it was not. If the operation at number 268 is evidence of the kind of operation that will be extended to number 37, the expectation would be that the conditions on that property would also follow. Mr. Willcox further stated that well over a third of the property consists of poorly drained soils. If you allowed horses to graze there, the land would end up being destroyed and you end up with a mud pit instead of a pasture. Certainly, the area that's there could not support the activity.

Kay Willcox, 71 Brick School Road, wanted to confirm that the 17.6 acres advertised for sale for over 200 days at 39 Brick School Road includes 37 Brick School Road consisting of 6 +/- . Ms. Shook was recognized and confirmed that it did.

Mr. Sean Hayden, resident of Torrington, stated that he is a certified soil scientist and that the project can't be considered under the as-of-right use regulations nor under the Town's right-to-farm ordinance, as there is no agricultural commodity being proposed for production, and no food or fiber products are being produced for sale. Therefore, the permit can only be issued under the Wetlands Regulations as if a residential development was being proposed.

Michael Sciulli, 152 Brick School Road. He bought his house about a year and a half ago and has not moved in yet, as it is under construction. But he stated that he was before this same committee about a year ago and had a couple of site visits by the commission. He stated that he had similar issues to deal with because he had proposed having some small farm animals and was advised by the commission not to have those animals within the wetlands. So, he was curious as to why the commission seems to think differently now and wanted to know what the setbacks for such activities were from the wetlands. He also stated that there was clearly a visual relationship to the current location at 268 Brick School Road. Although he realized it was not a wetlands issue, Mr. Sciulli added that the proposal was for something more like a commercial building -- a steel structure 12,000 square feet -- rather than a barn and wanted to state that he was opposed to the aesthetic character of such a building in that location.

Chairman Favreau asked Mr. McMorro to identify the proximities of the wetlands. Using his scale ruler, he stated that the setbacks in feet were 52 on the north, 26 on the south, 50 on the west, and 13 on the east.

Mr. Sciulli wanted to know if those setbacks fall within the guidelines. He remembered he had to make adjustments when he had wanted to do some clearing and he had to redo the survey in order to comply with certain setbacks. Ms. Hodza advised the Chair that the question need not be answered at this moment; however, should be noted and considered.

Mr. Hermann Tammen with his wife Waltraud Tammen, 50 Curtiss Road. Mr. Tammen asked about the driveway and wanted to know if and when it was approved, since it cuts through the wetlands. Then, he stated, the entire barn is surrounded by wetlands. He also referred to Keeping Horses in Residential Areas. He spoke about the recommended flooring, daily cleaning, and top-quality care and management. Mr. Tammen calculated the amounts of food and waste the animals would take in and produce. The brochure also stated that one should not build barns in wet areas. He stated that a complete manure management plan will have to be drawn up. He also stated that his understanding was that the 16 horses will stay inside the barn. If they were to be outside on the six-acre property, the grass would disappear in a couple of weeks. He referred to the brochure "Keeping Horses in Residential Areas," noting that others had referred to it early, by Jim Gibbons, Cooperative Extension Community Resource Development Agent, College of Agriculture and Natural Resources, The University of Connecticut, Storrs.

Mr. Michael Sciulli, 152 Brick School Road, added that he fully supported what has been said by others on Brick School Road.

Ms. Celia Ucciardo who spoke earlier, asked to submit a document regarding water contamination. Ms. Hodza received it on behalf of the Commission.

The Chairman sought **MOTIONs** from the floor.

Ms. Tanner **MOVED** to keep the public hearing open until August 26, the next regular meeting of the Commission. Ms. Binns **SECONDED**. The **MOTION CARRIED**.

Ms. Tanner **MOVED** to hold a special meeting site walk, Ms. Binns **SECONDED**. The **MOTION CARRIED**. The site walk was set for **Sunday, August 15, 2021 at 4:30 p.m.** Parking was available along the shoulder of Brick School Road or on Birch Drive.

[TIME:2:49:15 The Commission took a 15-minute break]

REGULAR MEETING

Chairman Favreau called the regular meeting to order at 10:05 p.m. In addition to himself, Nancy Binns, Tara Tanner (seated earlier for Nora Hulton) and Vice Chairwoman Cindy Shook (who now rejoined the commissioners table) were present. Members Tom Caldwell and Nora Hulton were absent, as was Alternate, Darin Willenbrock. A quorum was determined.

Approval of Minutes

Minutes of the Regular Meeting of June 24, 2021

Ms. Binns **MOVED** to approve the minutes of the June 24th meeting *with the correction* of Ms. Ucciardo's address. She is at 31 Brick School Road, not 33 Brick School Road. Ms. Tanner **SECONDED**. The **MOTION CARRIED**.

Minutes of the Special Meeting for a Site Walk of July 12, 2021

The minutes of the special meeting site walk of July 12, 2021 were tabled until the next meeting, since only two of the members present had attended, namely, Mr. Favreau and Ms. Shook.

Additions to the Agenda

Mr. Sean Hayden, Executive Director of the Lake Waramaug Task Force, wanted to add an agenda item. He requested that the validity of IW Permit # 21-02-02 issued for 39 Arrow Point Road be questioned.

Ms. Hodza stated that the Commission had planned to discuss two letters received regarding the matter under "communications received," but that a discussion would need to wait until a proper course of action was determined.

Mr. Hayden apologized for the interruption. Ms. Hodza stated that he had no way of knowing the matter was going to be introduced under "communications received," and that his request was in order.

Pending Applications

IWA #21-05-03 / 26 D North Shore Road, Assessors Map 43 Lot 7 / Boyd Holk, General Manager of the Washington Club for The Washington Club / Removal of fence and proposed relandscaping between Holt Beach and the Warren Town Beach. (Date of receipt by IWC 5/27/2021)

Mr. Holk, General Manager of the Washington Club, presented the additional information he had obtained from the landscape architect regarding the erosion controls that were proposed for the landscaping planned between his Club and the Warren Town Beach. The whole project would last no more than 3 including stabilization. Mr. Holk had also consulted a landscape installer who submitted an estimate for the work. The Chair reviewed the erosion controls and the placement of the wattles. Ms. Hodza stated that the plan has improved. She stated that on the site walk she was unhappy with the removal of the birch tree and was happy to see that a new, native, river birch was proposed. The Norwegian maples were also going to be replaced with native species.

Ms. Shook **MOVED** to approve the application. There was a discussion of a bond. Ms. Shook amended her **MOTION** to include a \$2,000 Bond. Ms. Tanner **SECONDED**; the **MOTION CARRIED**.

IWA #21-06-02 / 6 Arrow Point Road, Assessor's Map 45, Lot 9 / Gary Nurnberger Architect, LLC on Behalf of Arrowpoint Road LLC (Heath L. Watkin, Member) for approximately 200 linear feet of trenching and installation of utilities including lake water, well water, electricity, optical fiber cable, and propane near shoreline. Also included are an 8 x10 storage shed on precast concrete and a 10 x 16 gravel bed. (Received by Commission 6/24/2021)

Mr. Gary Nurnberger, Architect, was present for the application. He explained the refinements he made to the plans per last month's concerns and requests by the Commission. The propane line was removed from the proposal altogether. The locations of significant trees had been drawn on the plan, and the trench had been moved inland approximately ten feet in order to clear the drip lines. Mr. Watkin added information about the pump from the lake to the irrigation system. Mr. Nurnberger added that the time frame would likely be no more than three days: a day to dig the trench and lay the conduits, a day for inspection, and a day to cover the piping, and reseed. The possible need for a bond was discussed; however, the Commission saw little potential risk posed by the project.

Ms. Binns made a **MOTION** to approve the application, Ms. Tanner **SECONDED**; the **MOTION CARRIED**.

IWA #21-06-04 / 47 Rabbit Hill Road, Assessor's Map 9, Lot 27 / Nora Hulton / Proposed addition to single family dwelling. *(Received by Commission 6/24/2021)*

Chairman Favreau reported that Ms. Hulton had requested the tabling of her application while on the Special Meeting/Site Walk of July 19th. Ms. Hodza stated that she would follow up with the applicant to obtain an email stating that she authorizes an extension of time within which the Commission must act.

IWA #21-06-05 / 89 North Shore Road, Assessor's Map 46, Lot 3 / James Blinn for C. Duane Blinn / After-the-fact pond draining *(Received by Commission 6/24/2021)*

Mr. James Blinn was available for questions on this application. He expressed his regret about not having sought the Commission's or its Agent's approval before acting. The pond had been restored and there was no way to determine whether or not any harm had been caused to the lake. An after-the-fact fee had been received. Ms. Binns made a **MOTION** to approve the application; Ms. Shook **SECONDED**; the **MOTION CARRIED**.

New Business

IWA 21-07-01 / 381 Brick School Road, Assessor's Map 33, Lot 6 / Dennis McMorrow of Berkshire Engineering for John Durschinger / Construction of a pool and terrace (with related excavation and grading), terrace, storage building, and utilities in the regulated area *(Received by Land Use Officer on 7/20/2021; to be received by the Commission 7/22/2021)*

Mr. McMorrow was present for the applicant. He stated that the applicant had been before the commission to improve drainage at the property. The proposal is for a pool, patio, and storage building. TAHD approval for the addition is pending. The ground slopes east to west. The wetlands to the south are twenty to thirty feet away; however, the slope is perpendicular to them. There will be a patio, a fence and a trench for propane and electricity. Four feet of fill will be taken from the excavation for the pool to level the ground for the patio and fence. The 2-1 slope created will be able to be stabilized with grass. Chairman Favreau wanted information about the installation of the fence, the composition of the pool, the kind of pavers for the patio, and the size of the pad. He wanted to confirm the stockpile location and silt fence. He asked for the depth of the trenching and its length. He wanted measurements of the upland review areas. Mr. McMorrow showed with a scale ruler that all of the review areas overlap in the area where the pool is proposed. The proposed pool is 43 x 18 feet.

Ms. Tanner **MOVED** to accept the application. Ms. Binns **SECONDED**; the **MOTION PASSED**.

Other Business Proper

None

Officer's Report

Tabled to the next meeting, although Ms. Hodza stated that much of what was going on was pretty much laid out tonight.

Communications Received

Ms. Hodza received two letters regarding the decision by the Commission on Wetlands application for 39 Arrow Point Road. Both letters were received by Ms. Hodza via email this 22nd day of July. One letter was from Mr. Peary Stafford, as a private citizen, not as chair of the Lake Waramaug Task Force, and one letter from the Lake Waramaug Association. Ms. Hodza read the letters into the record. The letters requested that the Commission overturn or at least revisit its decision to permit the activity at the subject property per Warren Inland Wetlands Section 11.9, which states that if the Commission relied upon false or inaccurate information in making its decision, the Commission may “modified, suspended or revoked.

The Chairman read Section 11.9 from the Regulations. He explained the crux of the letters’ demands to re-open or at least revisit the approval of the permit, which may have been made based upon inaccurate information. The Chairman stated that nothing would be done tonight, as the letters were just received this very day; however, legal counsel would be sought and the proper course of action in the matter would be determined and followed.

Ms. Binns asked whether the new information had been confirmed and whether or not the applicant had begun work. The Chairman replied that work had not begun, since the matter is in Planning and Zoning presently and that the question of the measurements had only come to light during Planning and Zoning testimony earlier in the month, and for this Commission, by way of the letters read tonight.

Mr. Favreau stated that the commission needed to confirm the accuracy of the new information and that the Town’s land use attorney was consulted for proper protocols in this unusual situation.

Ms. Binns asked whether there was a question of time, and time limitations. The Chair replied that there was not; however, the Commission intends to act in a timely manner and will do so.

Ms. Hodza stated that this will become an item on the next regular meeting’s agenda.

Public Comment

Mr. Hermann Tammen, 50 Curtiss Road stated that per the May 27th minutes re 39 Arrow Point Road, because there was no public outcry, a public hearing was not required. Mr. Tammen felt this was wrong. The Commission’s duty – whether appointed or elected [it is appointed] – is to protect the public.

Mr. Sean Hayden, Director, Lake Waramaug Task Force, Warren, CT, stated that the letters summed up the Task Force's concerns.

Mr. David Robinson, 211 North Shore Road, thanked the Commission for its devotion to the Town.

Ms. Shook made a **MOTION** to adjourn. Ms. Binns **SECONDED**, the **MOTION CARRIED**, and the meeting was adjourned at 11:10 p.m. until the next regular meeting on August 26, 2021

Respectfully submitted,

Melissa Woodward,

Recording Secretary, and

Richelle Hodza,



Land Use Administrator

Link to Zoom recording:

https://us06web.zoom.us/rec/share/R4oy-BNMeLSJ86KbSvaT9itgeAlHMUs9h_4skIHkOI6BDo2JeSXYkhaA6z3Caiql.g1pzmY30aamS6et5