

Town of Warren  
Inland Wetlands & Conservation Commission  
Regular Meeting  
Thursday, February 16, 2023 – Minutes

The Chairman, John Favreau, called the Town of Warren Inland Wetlands & Conservation (IWC) Commission meeting to order at 6:06 pm. Members present were Tom Caldwell, Tara Tanner and Nancy Binns. Janell Mullen was present as the Town of Warren Wetlands Enforcement Officer (WEO). Members of the public included Attorney John Knuff of Hurwitz, Sagarin, Slossberg, and Knuff, LLC, Scott Thyberg, applicant and Warren resident, and David Richardson of Scott's Nursery & Landscaping, LLC.

The first item on the agenda was the approval of the minutes of the Regular Meeting of January 19, 2023. Nancy Binns moved to approve the minutes as written, Tara Tanner seconded the motion. The motion to approve the minutes passed unanimously.

Member Cindy Shook arrived at 6:08 pm.

The next item on the agenda (3A) under "Pending Applications" was IWA #23-1-01 Attorney John Knuff on behalf of Eli & Lydon Vonnegut regarding 231 Lake Road (Map 8, Lot 37). The application involves an after-the-fact request for the installation of a fence within the wetlands and the upland review area. The application review began with a presentation by Attorney Knuff of 147 Broad Street of Milford, CT. He stated that he was attending in lieu of Amy Souchuns and began by explaining that the project entailed eight (8) posts that had already been installed within the wetlands, seventeen (17) which had been installed in the upland review, and nine (9) more to be installed within the upland review area. The fence posts were dug every ten feet (10') along the front property line and filled with concrete. The work that still needs to be completed entails the installation of nine (9) additional posts in the upland review area and six (6) outside of the regulated area as well as the installation of fence panels which, according to the proposal, will be conducted by a contractor using a ladder and handheld equipment.

After the attorney's presentation, the Commission held a discussion about the delineation of the wetlands and where the intermittent stream is located on the property. Member Tom Caldwell mentioned that the site plan appeared to be missing some information about the wetlands since observationally, it had been noted that the watercourse traverses the Vonnegut's property into an adjacent pond on the abutter's property. Janell Mullen provided the Commission with a view of the inland/wetlands soils overlay on UConn's GIS mapping service so that the Commission could better understand the context of the wetlands that surrounds the applicant's property in order to better understand the overall impacts to the wetlands and/or watercourse. John Favreau asked about how the wetlands on the site plan differed from the wetlands described in the initial application that was denied. There remained some questions about how the wetlands were delineated in the process of preparing the application. Chairman Favreau requested that the applicant come back with the soils delineated on a site plan that had been stamped by a Certified Soil Scientist so that the Commission could better determine what impacts and disturbance that has already occurred on this site and within its vicinity.

Chairman Favreau then asked about the outstanding items from the initial application, which was received on January 19<sup>th</sup>. The incomplete items on the application form were D, E, and I. A [Project Impact Analysis](#) had been submitted as supplemental information.

Member Caldwell questioned the use of an excavator as opposed to a post-digger that would cause less impact provided 4' holes were being proposed. Chairman John Favreau asked about the maintenance of the fence posts that would likely rot over-time. Member Nancy Binns asked to learn more about the materials of the paneling. The applicant circulated supplemental materials that included a handout outlining MicroPro Technology as a method for treating wood in a non-toxic manner as well as a Kopper Performance Chemicals certificate.

Chairman Favreau asked the applicant if they would be open to extending the timeline of the approval process. Attorney John Knuff stated that he would be amenable to granting an extension and would talk to the client about engaging a soil scientist to provide wetlands delineation. Janell Mullen, WEO, stated that she could communicate with the applicant's representative regarding the timing since wetlands delineation by a soil scientist may take some time. That concluded the discussion on the application regarding 231 Lake Road.

The second item on the agenda, IWA #23-2-01, was an application from Scott Thyberg, the property owner of 58 Mountain Lake Road (Map 7, Lot 6). This application proposes a temporary stage structure to be assembled within wetlands & the upland review area. Scott Thyberg, began his presentation with an overview of his vision for the property which would involve 1-2 intimate dance events during the spring/summer season. He stated that he was aware of the need for additional approvals, such as Planning & Zoning for such a proposal.

Chairman Favreau stated that he felt the application needed more information. He asked about the composition of the stage and how, when installed, it would interact with the ground. He asked the applicant coming back at a later date after he has gathered all the information so that they may better understand all the potential impacts to the wetlands if these events were to take place. Janell Mullen stated that they would like to have a better understanding of all elements of the event including items that would occur off-site, such as parking, sanitary facilities, pedestrian activity. Those would need to be accounted for in order to understand the comprehensive effects to the wetlands. Chairman Favreau also asked that the application include mitigation measures to protect the wetlands from the public. Mullen asked about the erosion and sedimentation controls mentioned on the application. It was her understanding that the silt fence and staked haybales were on site as a part of a separate open wetlands license which had entailed the removal of trees and re-grading of the property. The measures specific to the events would need to be better explained on a follow-up submittal. She also stated that the wetlands were not in fact delineated on a site plan and they would need to be. The application did not include precise information regarding the distance of the activity from the wetlands and it would need to. Chairman Favreau moved to deem the application incomplete due to the numerous items that were outstanding. Nancy Binns seconded the motion. The motion passed unanimously.

Two (2) communications were sent to the WEO regarding this application. They were to be read into the record during the Agenda Item 6. Correspondence Received.

The next item on the agenda 4B under "New Applications" was IWA#23-2-02 David Richardson of Scott's Nursery and Landscaping, LLC on behalf of Ian & Laura Rowan. The application was for the installation of an in-ground pool within the upland review area. David Richardson began his presentation by referencing the site plan on which the wetlands had been delineated. There also a separate hand-sketched plan that utilized this information to illustrate the location of the proposed pool in relation to the wetlands. Chairman John Favreau told the applicant that they would need to overlay the wetlands on an official site plan that includes the proposed pool in order to move forward.

The applicant mentioned that Janell Mullen had requested a copy of Torrington Area Health District (TAHD) approval prior to the meeting and that it had not yet been provided to the applicant. Tom Caldwell stated that the authorization of TAHD would be definitive and that would provide complete information to the IWC. They don't like to make a determination if the information in the application is subject to change.

Cindy Shook moved to deem the application incomplete provided the wetlands were not indicated on the site plan and due to the fact that TAHD was pending. Tara Tanner seconded the motion. The motion passed unanimously.

The next item on the agenda 5A was "Protocol regarding after-the-fact wetlands activity". Janell Mullen stated that it might be helpful to the public if all work that was performed "after-the-fact" and involved sensitive disturbance were subject to a public hearing. In many instances, there has been no consistent channel of communication to abutters when work had been performed within the wetlands. Due to the fact that wetlands and watercourse do not end where property lines do, she stated that it might be really useful for after-the-fact activity to go to a hearing so that the neighbors were noticed as well as the general public. Tara Tanner moved establish the standard that all after-the-fact work that involves sensitive disturbance be subject a public hearing. Nancy Binns seconded the motion. The motion passed unanimously.

The next item on the agenda was "Communications Received". Janell Mullen noted an email received from Edgar Berner dated Thursday, February 16<sup>th</sup> that expressed concern for the 58 Mountain Lake Road application. She read the email into the record. Janell Mullen noted a second email from David Robinson that expressed wetlands concerns for the same proposal. She read that email into the record. The third communication received was from DEEP which involved the Permit Application for the Use of Pesticides in State Waters – 137 Brick School Road. The pond treatment was to mitigate weed growth.

The Agent's Report followed. Janell Mullen noted that they should anticipate an application from James Schullery of 183 Lake Road in March. If no application is filed. She noted that she would engage enforcement action since it appears disturbance has occurred in the wetlands at this site. She noted driving by and observing construction materials in and around the wetlands/upland review area.

There were no public comments during the public comment period. Tom Caldwell moved to adjourn the meeting at

7:59 pm. Cindy Shook seconded the motion. The motion passed unanimously.

Respectfully submitted,

Janell Mullen  
Town of Warren – Wetlands Enforcement Officer