

TOWN OF KENT INLAND WETLANDS COMMISSION

41 Kent Green Boulevard
P.O. Box 678
Kent, CT 06757
Phone (860) 927-4625

RECEIVED

By Darlene Brady at 10:31 am, Apr 25, 2023

REGULAR MEETING MINUTES

The Inland Wetlands Commission held a regular meeting via zoom on Monday, April 24, 2023, beginning at 7:00 p.m.

1. CALL TO ORDER

Ms. Werner called the meeting at 7:01 p.m.

2. ROLL CALL AND APPOINTMENT OF ALTERNATES, IF REQUIRED

Commissioners Present: Lynn Werner, Chairman; Ken Deitz, Ken Johnson,
Marge Smith, Paul Yagid

Staff Present: Tai Kern, Land Use Administrator
Donna Hayes, Assistant Land Use Administrator

Ms. Smith moved to add to the agenda Application # 1317-23, John Davidson, 250 Schaghticoke Road, Map 5, Block 3, Lot 2, 16'x28' addition to the living space with a 12'x 25' deck. Mr. Johnson seconded and the motion carried unanimously.

3. READING OF MINUTES OF PREVIOUS MEETINGS

3.A. Regular Meeting Minutes, March 27, 2023.

Ms. Smith moved to approve the Regular Meeting Minutes, March 27, 2023, as presented. Mr. Johnson seconded and the motion carried unanimously.

3.B. Special Meeting Minutes, March 27, 2023.

Ms. Smith moved to approve the Special Meeting Minutes, March 27, 2023, as presented. Mr. Yagid seconded and the motion carried unanimously.

3.C. Site Walk Special Meeting Minutes, April 17, 2023

Kent Inland Wetlands Regular Agenda 04/24/2023

These are draft minutes and reflect a summary of discussions and relative motions. Corrections may be made by the Commission at the subsequent meeting. Please refer to subsequent meeting minutes for possible corrections and approval of these minutes.

Mr. Johnson moved to approve the Site Walk Special Meeting Minutes, April 17, 2023, as presented. Mr. Yagid seconded and the motion carried unanimously.

4. OLD BUSINESS

- 4.A.** Application 1307-23, George & Rosemarie Bosson, 22 Spooner Hill Rd, Map 5, Block 12, Lot 102, construction of dwelling, driveway, well and associated site work.

Ms. Kern explained the new information that was received from the applicant's representative.

Mr. Gallagher told the Commission that the property sits on a high point and the pool and any drainage will drain towards Spooner Hill and not the wetlands. There is a catch basin at the end of the driveway.

Mr. Johnson moved to approve Application 1307-23, George & Rosemarie Bosson, 22 Spooner Hill Rd, Map 5, Block 12, Lot 102, construction of dwelling, driveway, well and associated site work. Mr. Deitz seconded and the motion carried unanimously.

- 4.B.** Application # 1310-23, John & Tonya Sterry, Segar Mountain Road, Map 10, Block 40, Lot 1, cutting of underbrush and fallen trees in regulated area.

Ms. Werner asked if the Commission had any additional questions/concerns regarding this application. Having none, the following motion was made:

Mr. Yagid moved to approve Application # 1310-23, John & Tonya Sterry, Segar Mountain Road, Map 10, Block 40, Lot 1, cutting of underbrush and fallen trees in regulated area. Mr. Johnson seconded and the motion carried unanimously.

- 4.C.** Application # 1311-23, Susanne & Jeffrey Berg, 15 Halls Lane, Map 9, Block 22, Lot 31, tree cutting in wetland area

There were no comments from the Commission and no additional information presented by the applicant.

Ms. Yagid moved to approve Application # 1311-23, Susanne & Jeffrey Berg, 15 Halls Lane, Map 9, Block 22, Lot 31, tree cutting in wetland area. Mr. Johnson seconded and the motion carried unanimously.

- 4.D.** Application # 1312-23, Lydia Long (Wesley Wyrick, Agent), 14 Highland Road, Map 5, Block 12, Lot 87, tree cutting in regulated area.

Ms. Werner commented that a site visit was done on this property and additional information was supplied. Ms. Kern had no additional information; she did confirm that there were trees that were decaying. The other issue was the red bat and this issue was discussed with the DEEP. The DEEP forwarded some information on safely doing the tree cutting and it did not appear that there will be any issues that should be of concern to the Commission. Mr. Yagid said that he noted that most of the trees were Black Locust which are invasive and removing them and replacing them with native trees would be beneficial. There is a very elaborate planting plan but it would be good to allow the natives to fill in. Ms. Smith agreed with Mr. Yagid; Mr. Johnson felt that the planting plan was a good plan. Mr. Deitz did not have any issues with the presented plan. Ms. Werner said that the work should not be done until after September 1, 2023 in order to allow the bats to reproduce; this date was supplied by the DEEP. Mr. Wyrick said that he believes the applicant would agree with that.

Kent Inland Wetlands Regular Agenda 04/24/2023

These are draft minutes and reflect a summary of discussions and relative motions. Corrections may be made by the Commission at the subsequent meeting. Please refer to subsequent meeting minutes for possible corrections and approval of these minutes.

Ms. Kern asked if the planting plan will be part of the approval and asked the Commission if they wanted to hold back on the issuance of the Certificate of Zoning until the planting plan was executed. Ms. Long said that the planting plan will be phased based on the natural lighting and the type of soil on the site. They do have a recommended landscape architect to help with the planting. Ms. Werner asked about the time frame. Ms. Long said that they wanted to start work as soon as they got their approval but now that she has learned that it might be delayed based on the recommendation of the DEEP, she would like to at least break ground and remove some of the trees as soon as possible. Ms. Long commented that her partner had already purchased bat houses and Mr. Johnson said that was a step in the right direction. Ms. Smith agreed.

Mr. Weigel, an adjoining neighbor, said that any approval should be based on a firm commitment of the restoration of the property and that the DEEP report stresses the importance of the invasive trees as a habitat for the red bats. He asked for a delay of the cutting of the 23 trees in the regulated area. Ms. Werner said that the Commission can condition the approval and asked if the trees in the regulated area would affect the beginning of the work. Mr. Wyrick said that he believes that those trees are to the east of the area to be disturbed. Ms. Long said there are a bunch in the area of the septic and two would be overhanging the building. Mr. Wyrick clarified that the trees in question are to the east of the rock wall. Ms. Long said that the trees by the rock wall can be delayed. The trees on the other side of the wall will need to be removed. Mr. Yagid said that there will be enough trees on the lower level to provide plenty of habitat for the bats.

Ms. Werner said that as far as Ms. Kern's question, she asked the Commission how they would like Ms. Kern to move forward. Ms. Kern said that there is an option to take a bond for what is not completed and asked how far along the Commission would agree to accept or did they want her to use her own discretion. Ms. Long said that they will be meeting with the landscape architect and wondered if it would be possible for Ms. Kern to approve the planting plan as changes are made. The Commission agreed that substitutions could be approved by the WEO as long as there would be the same intended results. Ms. Kern suggested that once plantings were installed for erosion purposes a temporary certificate of compliance could be issued and then the applicant could bond for the balance. The timeline for the remainder of the planting would be 6 months with a bond. Ms. Long said that 6 months would be a workable timeline.

Mr. Weigel said that there is a 60–65-year-old tulip poplar tree that was originally slated to be removed. He asked if that was still the plan. Ms. Long said that each arborist they contacted told them that the tree has definitely lived its life and that the roots were becoming brittle making this tree hazardous.

Ms. Smith moved to approve Application # 1312-23, Lydia Long (Wesley Wyrick, Agent), 14 Highland Road, Map 5, Block 12, Lot 87, tree cutting in regulated area with the condition the planting plan be implemented as discussed. Mr. Yagid seconded and the motion carried unanimously.

- 4.E.** Application # 1313-23, John Gleason (Michael Gawel, Agent), 12 Halls Lane, Map 9, Block 22, Lot 43, removal of invasives, dredge pond, regrade and stabilize area.

Ms. Kern said that she feels everyone at the site visit now understands the scope of the project. She continued that Mr. Gawel asked that an ornamental tree located in the regulated area be added to the application. There were no concerns from the Commission.

Mr. Johnson moved to approve Application # 1313-23, John Gleason (Michael Gawel, Agent), 12 Halls Lane, Map 9, Block 22, Lot 43, removal of invasives, dredge pond, regrade, removal of one tree and stabilize area. Ms. Smith seconded and the motion carried unanimously.

Kent Inland Wetlands Regular Agenda 04/24/2023

These are draft minutes and reflect a summary of discussions and relative motions. Corrections may be made by the Commission at the subsequent meeting. Please refer to subsequent meeting minutes for possible corrections and approval of these minutes.

- 4.F.** Application # 1314-23, Rob Zombie (Frank Monteleone, Agent), 19 Cobble Rd, Map 9, Block 22, Lot 90, demo of barn and guest house within wetland area.

Mr. Monteleone was present to address the Commission. Ms. Smith commented that there are components of the structure that were old and that the structure was moved to that site. She feels that the plan to remove the structure is very sensitive to the area. The house will be moved away from the stream as one structure on rubber mats and then removed from the site. The barn will be taken down by hand. Mr. Monteleone said that the area where the house is currently located will be seeded.

Ms. Smith moved to approve Application # 1314-23, Rob Zombie (Frank Monteleone, Agent), 19 Cobble Rd, Map 9, Block 22, Lot 90, demo of barn and guest house within wetland area. Mr. Yagid seconded and the motion carried unanimously.

- 4.G.** Application # 1315-23, Kent School (Daniel Robertson, Artis Energy), Schaghticoke Rd., installation of 2 EV Charging Stations within the regulated area

Ms. Kern said that there are no concerns with this application from a wetlands perspective, but they still have other permits to obtain.

Mr. Yagid moved to approve Application # 1315-23, Kent School (Daniel Robertson, Artis Energy), Schaghticoke Rd., installation of 2 EV Charging Stations within the regulated area. Mr. Johnson seconded and the motion carried unanimously.

5. NEW BUSINESS

- 5.A.** Application #1316-23, Judith Landrigan, Trustee (Brian Neff), 160 Ore Hill Road, 2 lot re-subdivision, with no construction or site disturbance.

Mr. Brian Neff, PE, was present representing the applicant. He explained the history of the property and the need for the subdivision. He said that there is a small number of wetlands near Treasure Hill Rd which is 1,000' from the previous construction. There will be no exterior construction. Ms. Werner asked if the wetlands could possibly be impacted in the future. Mr. Neff said he did not think so unless the property was subdivided again further down the road. The reason for the subdivision is really based on the zoning regulations not allowing three dwellings on one lot. Mr. Neff informed the Commission that notification was made to New Milford and the adjoining property owners as required by the regulations.

Mr. Yagid moved to continue Application #1316.23, Judith Landrigan, Trustee (Brian Neff), 160 Ore Hill Road, 2 lot re-subdivision, with no construction or site disturbance. Mr. Dietz seconded and the motion carried unanimously.

- 5.B.** Application # 1317-23, John Davidson, 250 Schaghticoke Road, Map 5, Block 3, Lot 2, 16'x28' addition to the living space with a 12'x 25' deck.

Ms. Kern explained that the proposed addition and the deck is located between two existing structures and, therefore, the disturbance to the regulated area will be minimal.

Kent Inland Wetlands Regular Agenda 04/24/2023

These are draft minutes and reflect a summary of discussions and relative motions. Corrections may be made by the Commission at the subsequent meeting. Please refer to subsequent meeting minutes for possible corrections and approval of these minutes.

Mr. Poynton was present representing the applicant. He explained that the deck is currently existing. Ms. Werner verified that nothing was being done between the house closest to the brook and the brook. Mr. Poynton confirmed that.

Mr. Johnson asked if more bedrooms will be added. Mr. Poynton said that there will be no additional bedrooms. The idea is to create a flow between the houses along with the addition of plumbing to the house on the right side. The additions will be built on concrete piers with minimal disturbance.

Ms. Werner asked if the proposed porch will follow the same line as the existing front porch. Mr. Poynton said that it will. Ms. Werner said that there is the potential for some additional runoff but not much. Mr. Yagid said that he did not think silt fencing was really required.

Ms. Smith moved to continue Application #.1317-23, John Davidson, 250 Schaghticoke Road, Map 5, Block 3, Lot 2, 16'x28' addition to the living space with a 12'x 25' deck. Mr. Johnson seconded and the motion carried unanimously.

6. COMMUNICATIONS TO THE COMMISSION

A. WRITTEN

Pesticide Application – 22 Chimney Rock Road

Ms. Kern said that she did reach out to the DEEP regarding pesticide applications and received no response to her inquiries. Ms. Werner said that there was no need to spend lots of time on them, but some review should be done, especially if they pick up any errors on the applicant's part.

With regard to the application, Ms. Werner asked if it could impact the Housatonic River. After looking at the google map, they did not think so. It was noted that there was no outflow, but that water can be held if needed. There was some confusion with regard to this answer.

Proposed Fine Ordinance – Legal Review

Ms. Werner asked Ms. Kern if she had any questions regarding Attorney Zizka's comments. Ms. Kern said that she did not. Ms. Werner asked if the Commission would be recommending that the citation be issued. Ms. Kern said that they would be but that a citation officer, appointed by and reporting to the Board of Selectmen, would be appointed as a means for appeals for anyone issued a citation.

Ms. Werner asked Ms. Kern to find out if this could be added to the Board of Selectmen's meeting on Wednesday, April 26th. Mr. Yagid said that he could attend if Ms. Kern could get this added to the agenda.

Mr. Yagid asked if any of the Land Use commissions had the right to fine. Ms. Kern said that Inland Wetlands would be the first by Ordinance.

Ms. Smith moved to approve the Fining Ordinance as amended by Atty. Zizka. Mr. Yagid seconded and the motion carried unanimously.

With regard to the changes to the application that were suggested by Attorney Zizka due to the changes in State Statute, the Commission agreed and felt that they should be updated on the application.

Kent Inland Wetlands Regular Agenda 04/24/2023

These are draft minutes and reflect a summary of discussions and relative motions. Corrections may be made by the Commission at the subsequent meeting. Please refer to subsequent meeting minutes for possible corrections and approval of these minutes.

Mr. Deitz moved to approve the language proposed by Attorney Zizka with regard to the permit expiration. Mr. Yagid seconded and the motion carried unanimously.

B. VERBAL

Ms. Kern reported that she had conducted a site walk at a property located at 103 Geer Mountain Road. She reported that it appears that there was a sudden re-channelization of the existing water in front of the existing residence. She looked at the culverts upstream and felt that they were sufficient to handle any of the flow. The exact reason for the change is difficult to determine. Ms. Kern asked if the Commission would agree to having Ms. Cynthia Rabinowitz come to the property for a review.

Ms. Wendy Murphy, who is a neighbor and was present at the site visit, said that she had been watching this for years. She said that there are two streams that come together in the vicinity of her property. Ms. Murphy said that she believes it is coming from the Slovick/Harrington property on the west side of the road where their driveway has been undermined. Ms. Murphy said that if something should let go, she could lose her backyard.

Ms. Werner said that if Ms. Rabinowitz could give them some idea of what happened, they would be better able to decide what needs to be done. Ms. Kern said that she felt the driveway at 111 Geer Mountain may need to be addressed in addition to the concerns at 103 Geer Mountain Road.

Ms. Werner asked if there has been any significant tree cutting upstream. Ms. Murphy said that she did not think so. Ms. Werner said looking at changes to the canopy would be interesting.

Ms. Murphy expressed concern regarding the earthen dam at Irving Pond. She does not think it is being inspected on a regular basis. Ms. Murphy said that there was some increase to the stream flow recently and she was concerned that the earthen dam might have broken. That was not the situation, but Ms. Murphy is still concerned.

Ms. Kern will report back after checking with Ms. Rabinowitz of the NWCD.

7. ADJOURNMENT

Ms. Deitz moved to adjourn at 8:37 p.m. Mr. Johnson seconded and the motion carried unanimously.

Respectfully submitted,

Donna M. Hayes
Donna M. Hayes, CZEO
Assistant Land Use Administrator

Kent Inland Wetlands Regular Agenda 04/24/2023

These are draft minutes and reflect a summary of discussions and relative motions. Corrections may be made by the Commission at the subsequent meeting. Please refer to subsequent meeting minutes for possible corrections and approval of these minutes.