

# TOWN OF KENT INLAND WETLANDS COMMISSION

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**RECEIVED**

*By Darlene Brady at 8:37 am, Nov 28, 2023*

## REGULAR MEETING MINUTES

The Inland Wetlands Commission held a regular meeting on Monday, November 27, 2023, beginning at 7:00 p.m. via zoom.

### **1. CALL TO ORDER**

Ms. Werner called the meeting to order at 7:02 p.m.

### **2. ROLL CALL AND APPOINTMENT OF ALTERNATES, IF REQUIRED**

Commissioners Present: Lynn Werner, Chairman; Ken Deitz (7:04 p.m.), Jeffrey Galusha, Ken Johnson, Marge Smith, Paul Yagid (7:04 p.m.)

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

*Ms. Werner moved to elevate Mr. Galusha to voting status. Ms. Smith seconded and the motion carried unanimously.*

### **3. READING OF MINUTES OF PREVIOUS MEETINGS**

#### **3.A. Regular Meeting Minutes October 23, 2023.**

Ms. Smith asked that the word “and” be changed to “an” in the first paragraph under agenda item 5.B. on page 3.

*Ms. Yagid moved to approve the Regular Meeting Minutes of October 23, 2023, as corrected. Mr. Johnson seconded and the motion carried unanimously.*

### **4. OLD BUSINESS**

#### **4.A. Application #1331-23, Katherine Kane (Jamie Lintner), Gidd Lane, Map 17, Block 18, Lot 3,4,5,8,9,10, Forest Practices**

Mr. Jamie Lintner was present representing the property owner. Ms. Kern said that she did hear from the DEEP who advised that the Commission could either do a jurisdictional ruling or ask the applicant to present an Inland Wetlands Application. Ms. Werner asked when Mr. Lintner planned on starting the job

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Kent Inland Wetlands Regular Meeting Minutes 11/27/2023

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and Mr. Lintner said that he was looking at a January timeframe. She also asked if he planned on taking trees from the wetlands itself. Mr. Lintner said that he did not plan on doing that.

Ms. Werner asked the Commission how they felt about approving via a jurisdictional ruling since there will be watercourse crossings. The Commission felt that there was clear information and sediment and erosion control information provided in the Forestry Application and that the Commission would not learn anything new with the submission of an Inland Wetlands Application.

Ms. Kern said that the DEEP representative recommended that the Commission make two motions; one to indicate that they had made a jurisdictional ruling as an “as-of-right activity” and the other to approve the Forestry Application.

*Mr. Yagid moved to approve an inland wetlands jurisdictional ruling as an as-of-right activity attached to Application #1331-23. Mr. Galusha seconded and the motion carried unanimously.*

*Mr. Yagid moved to approve Forestry Application #1331-23, Katherine Kane (Jamie Lintner), Gidd Lane, Map 17, Block 18, Lot 3,4,5,8,9,10, Forest Practices. Mr. Deitz seconded and the motion carried unanimously.*

## **5. NEW BUSINESS**

- 5.A.** Application #1333-23, Adam Richichi (Sam Sabin, agent), 90 Gorham Rd., Map 15, Block 22, Lot 4, after-the-fact patio and landscaping within regulated area

Mr. Sam Sabin was present as the agent. Ms. Werner asked why this application was coming in as an “after-the-fact” application. Mr. Sabin said that it was totally his fault as he did not review the original approval and with the amount of work and some personal issues to take care of, that review was not done. Ms. Kern said that this was a very sensitive application when the application first came before the Commission. She referred the Commission to the originally approved site plan which shows the area of disturbance.

Mr. Sabin shared his screen which shows that the terrace work was done outside of the limit of disturbance originally approved. The work that was done did not require any additional tree cutting and they did stay outside of the conservation easement. The need for the terraces and walls was due to the elevations in the back yard and the preference of not adding any additional fill which would flow into the conservation easement. Most of the area is pervious with two non-pervious areas. There will be plantings on top of the boulder wall and around the center portion of terrace. Ms. Werner asked if Mr. Sabin had completed a new surface drainage calculation based on this new terrace. He said that he did not. Mr. Yagid asked if the bluestone was set on top of concrete or gravel. Mr. Sabin said that it was set on concrete to prevent settling. The small blue stone pavers on the terrace will be set on lawn and not concrete. Buffer plantings will be provided. Mr. Sabin said that the property owner did not want any additional green space or the removal of any additional trees.

Ms. Werner asked what would be planted on the area behind the terrace. Mr. Sabin said that it will be planted with no-mow fescue. Ms. Werner asked if that is shown on the plan. Mr. Sabin said that it was not; he was concentrating on the hardscape. He explained that the property owner wants to make sure that the area in the back will remain filled with natives.

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Mr. Yagid asked what plantings are in the conservation easement towards the brook. Mr. Sabin said that there are many invasives. He did not include that work on this application since it was an after the fact application. Ms. Werner said that any of the work that is planned for the removal of the invasives would require another permit.

Mr. Sabin said that this application is delaying the Certificate of Occupancy for the homeowners and asked if there was any way to let the property owners obtain either a Temporary Certificate of Occupancy or Certificate of Occupancy before the Commission makes their decision. Ms. Werner said that the Commission could not do that. Mr. Yagid asked if this was an amendment or a separate permit. Ms. Werner said that this was work that was never approved or might not have been approved. Mr. Johnson said that he did not see anything that could negatively affect the wetlands. Ms. Werner said that she is not sure about that until there is a calculation of the increase to the flow rate, if any, to the wetlands.

Mr. Sabin then showed some pictures of the work done and how the plantings will fall in to the pictures shown.

Ms. Werner said that the Commission will have to ask themselves if they would have approved this application when it was first presented to them. Her concern is the closeness to conservation easement. Mr. Sabin said that the limit of disturbance was impacted but they did not enter the conservation easement area. Ms. Kern said that the approved plan shows the limit of disturbance right up against the corner of the house.

Ms. Werner asked for the Commission's comments and commented that she is not leaning toward an emergency approval. Mr. Galusha said that the question is whether or not the terrace is increasing the runoff when the stone walls were constructed with concrete. Ms. Werner said that she does not think that it would make any difference. Mr. Yagid asked where the pipe under the wall empties. Mr. Sabin said that they determined during construction that the pipe was not needed and there is no other drainage installed. He said that the water will just sheet flow off the terrace. It was also determined that some non-invasives would be planted along the regulated area/conservation easement area.

Ms. Kern said that based on the previous approval, the Commission requested that no disturbance be made to this area. Mr. Deitz showed the approved plan and said that he would like to see the continuation of the plantings across the back of the area. Mr. Yagid, Ms. Smith and Ms. Werner all agreed. Mr. Sabin said that he knows the property owner would be amenable to that. He also suggested a rain garden be installed. This would be located at the boulder area as well as the staircase. Mr. Deitz suggested that the rain garden be installed in the open lawn area as this would slow any runoff to the wetlands on that side of the property. Mr. Sabin said that he feels this could be done.

Ms. Werner asked that Mr. Sabin come back with a revised planting plan to accomplish the slowing down of surface flow from the terrace. Mr. Yagid said that he would prefer a buffer planting instead of a rain garden. Ms. Smith agreed. Mr. Deitz asked if the applicant should provide runoff calculation increases as well. Mr. Sabin said that he would be willing to do that.

Mr. Sabin asked if it would be possible to have a special meeting. Ms. Werner asked how the rest of the Commission felt. Mr. Johnson was okay; Ms. Werner said that she was not really inclined to do that since this was something that should have come before them before the work was done but would do it if the Commission wanted to. Ms. Kern said that if the Commission approves this at the special meeting, the plantings could not be installed so a bond would be required and a temporary Certificate of Zoning Compliance could be issued. She also said that it appears from the pictures shared by Mr. Sabin that the

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existing erosion control system was in bad condition. It was noted that the next regular meeting was December 18<sup>th</sup>. Ms. Kern asked if anyone had contacted the conservation easement holder. Mr. Sabin said that he would do that tomorrow.

*Ms. Johnson moved to continue Application #1333-23, Adam Richichi (Sam Sabin, agent), 90 Gorham Rd., Map 15, Block 22, Lot 4, after-the-fact patio and landscaping within regulated area to a special meeting on December 4<sup>th</sup> at 4:30 p.m. Mr. Deitz seconded and the motion carried unanimously.*

**5.B.** Application #1334-23, Kent Land Trust (Michael Benjamin, agent), 168/170 Kent Rd., Map 5, Block 10, Lot 49, viewing deck and parking area within regulated area.

Ms. Werner commented that the application was put together very well and asked what type of permit was granted by First Light. Mr. Benjamin, representing the Kent Land Trust, said that he was not sure.

Mr. Benjamin explained that there was a footpath that goes out to the river edge from the existing parking area. The approval of this application will allow people with disabilities to view the area via the path and a 12' x 14' deck. There is no access to the river. The pathway will be approximately 500' long and be supported by Helio coils. Ms. Werner asked if there were any flooding concerns. Mr. Benjamin said that it is possible and that it did happen during the ice jam. The hope is that the area does not scour if the water floods it. Ms. Werner asked if the decking could be moved during a weather event. Mr. Benjamin said that he did not think the water could do it, but it could happen by ice should there be another ice jam. Ms. Werner asked if this was in the floodplain and the determination was that it was and directed Mr. Benjamin to have a conversation with the Building Official.

Mr. Benjamin asked if it would be necessary to wait until the approval of this application to add gravel to the parking area. Ms. Kern said that if it was to maintain what was there already, no permit was necessary. Ms. Werner agreed.

*Mr. Yagid moved to continue Application #1334-23, Kent Land Trust (Michael Benjamin, agent), 168/170 Kent Rd., Map 5, Block 10, Lot 49, viewing deck and parking area within regulated area. Mr. Johnson seconded and the motion carried unanimously.*

## **6. COMMUNICATIONS TO THE COMMISSION**

### **A. WRITTEN**

#### Approval of 2024 Regular Meeting Schedule

Ms. Werner asked if December 23, 2024, was too close to the holidays. There were no issues with that date. Ms. Smith said that the September meeting would be a problem for her. Mr. Yagid, Mr. Deitz and Ms. Werner said that there was a problem with the June date and Ms. Kern said that she could always do a headcount and if there was no quorum, a special meeting could be scheduled.

*Ms. Smith moved to approve the 2024 Regular Meeting Schedule as presented. Mr. Johnson seconded and the motion carried unanimously.*

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**B. VERBAL**

Ms. Kern said that the Commission will be electing their officers and approving their By-laws at the next meeting. She also posed a question to the Commission about whether or not a newly created lined pond would require an inland wetlands permit. It was decided that this was a question for the DEEP.

**7. ADJOURNMENT**

*Mr. Johnson moved to adjourn at 8:30 p.m. Mr. Galusha seconded and the motion carried unanimously.*

Respectfully submitted,

*Donna M. Hayes*

Donna M. Hayes  
Assistant Land Use Administrator