

TOWN OF KENT INLAND WETLANDS COMMISSION

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

REGULAR MEETING MINUTES

The Inland Wetlands Commission held a regular meeting via zoom on Monday, June 26, 2023, beginning at 7:00 p.m.

1. CALL TO ORDER

Ms. Werner called the meeting to order at 7:03 p.m.

2. ROLL CALL AND APPOINTMENT OF ALTERNATES, IF REQUIRED

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

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

Mr. Yagid moved to add agenda item 5.D. Ms. Smith seconded and the motion carried unanimously.

3. READING OF MINUTES OF PREVIOUS MEETINGS

3.A. Regular Meeting Minutes May 22, 2023.

Ms. Werner asked that the word “and” be added to the last sentence under section 4.B., between “down” and “left”.

Mr. Yagid moved to approve the Regular Meeting Minutes of May 22, 2023, as amended. Ms. Smith seconded and the motion carried unanimously.

4. OLD BUSINESS

4.A. Application #1318-23, Nancy Banffy, 21 Highland Rd., Map 5, Block 12, Lot 93, pre-built shed and associated fill

Ms. Werner asked if Ms. Kern had a chance to visit the site to clarify the location of the wetlands. She replied that she had visited and took pictures. She continued that she had also found the subdivision map which showed the wetlands. It was noted that there will not be any excavation; just the installation and grading of stone. Mr. Yagid asked if the stone will be placed on grade so that no soil will be removed. Ms. Banffy said that was correct.

Kent Inland Wetlands Regular Minutes 06/26/2023

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Ms. Smith moved to approve Application #1318-23, Nancy Banffy, 21 Highland Rd., Map 5, Block 12, Lot 93, pre-built shed and associated fill. Mr. Johnson seconded and the motion carried unanimously.

- 4.B.** Application #1319-23, Danny Binstock (James Laporta/Litchfield Hills Solar), 40 Halls Lane, Map 9, Block 22, Lot 47, installation of solar panels with associated posts and trenching within 140 feet of watercourse.

Ms. Kern verified that she had no concerns about the installation. Ms. Werner asked the representative if the application stood as presented; Mr. Laporta reported that there were no changes.

Ms. Smith moved to approve Application #1319-23, Danny Binstock (James Laporta/Litchfield Hills Solar), 40 Halls Lane, Map 9, Block 22, Lot 47, installation of solar panels with associated posts and trenching within 140 feet of watercourse. Mr. Johnson seconded and the motion carried unanimously.

- 4.C.** Application #1320-23, Joanne & Khalid Wasti (Mason Lord/Hudson Valley Preservation), 120 North Main St., Map 9, Block 42, Lot 7, grading and drainage within pond and stream setback and removal of maple tree.

Ms. Werner reminded the Commission that they had requested some additional information. Ms. Kern stated that Mr. Pat Hackett, the engineer for the project, was present and that he had provided the information that was requested at the first meeting.

Mr. Hackett explained that the contours were higher around the middle of the existing barn causing the barn to flood out during heavy rains. The plan is to change that so that the drainage would go around the barn on the Route 7 side; this side was chosen in order to protect existing healthy trees on the opposite side. Currently, there is a 12" corrugated pipe and all the activity would be upstream of that. Mr. Hackett said that he is not a big fan of riprap and stated that they were using a green cloth system and that hay bales will be used from the pad to where the culvert inlet is located. He continued that the project was small and the project should take only a couple of days.

Ms. Werner thanked Mr. Hackett for the information. The Commissioners all agreed that what was presented was the best procedure for this project.

Ms. Smith moved to approve Application #1320-23, Joanne & Khalid Wasti (Mason Lord/Hudson Valley Preservation), 120 North Main St., Map 9, Block 42, Lot 7, grading and drainage within pond and stream setback and removal of maple tree with the updated information. Mr. Johnson seconded and the motion carried unanimously.

- 4.D.** Application #1321-23, Town of Kent (Rick Osbourne), Choggam Brook Bridge River Road, emergency replacement of bridge decking

Ms. Kern said there was no additional information.

Mr. Yagid moved to approve Application #1321-23, Town of Kent (Rick Osbourne), Choggam Brook Bridge River Road, emergency replacement of bridge decking. Mr. Johnson seconded and the motion carried unanimously.

5. NEW BUSINESS

Kent Inland Wetlands Regular Minutes 06/26/2023

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.

- 5.A. Modification Request #2, Application #1190-19, Howard & Donna Smith, 81 Kent Hollow Rd, Map 16, Block 24, Lot 1, construction of single-family home, driveway, septic, underground utilities and associated site work – **modification to include after-the-fact replacement of Rootspace system with 10,000-gallon underground stormwater storage tank and boulder retaining wall adjacent to the septic pump chamber.****

Ms. Werner thanked the applicant for attending the meeting and explained that the Commission has to fully understand what is happening on the property before the process can legally move forward.

Ms. Kern said that the changes included the fact that the rain gardens were planted with grass instead of native plantings, a boulder retaining wall was installed within the regulated area, the permeable pavers were changed to gravel and the root space system was not installed as approved. She reported that Mr. Neff has written letters confirming that the rain gardens are performing as designed without the plantings and that the replacement of gravel for pavers has no impact. With regard to the replacement of the rootspace system, Ms. Kern said that Mr. Neff was present to provide further information on that. Ms. Kern said that the newest information includes a change to the foundation surrounds which will be better explained by Mr. Neff.

Ms. Wener commented that the site is a very tricky one and the Commission wanted to ensure that the water resources not be impacted with the development of the site. Their main concern at this meeting was the replacement of the rootspace system and the changes to the area around the foundation and its impact to the stream below.

Mr. Neff said that the original proposal presented by the landscape architect included the root-based system due to the amount of ledge against the back of the house. After reviewing how this system would perform, they realized that there was no guarantee that it would not leak around the foundation and into the basement area. Based on this determination, the engineers were tasked with looking for a different way to handle the runoff from the hill as well as the runoff from the roof system. The solution was to install a totally sealed container to hold the water and to discharge it at a slower rate. Due to the size of the container, it wouldn't fit in the original area that was proposed and, therefore, there was no other place to put it except down gradient of the house in an area off the side of the house near the driveway. This 9' diameter, 3' long, 10,000-gallon tank will be catching water from the roof of the house. The area behind the house where the permeable pavers were installed will discharge a small amount of water safely to the ground. A discharge box discharges water into a 5' wide, 5' deep, 34' long trench under the overhang of the house. The water will be flowing out in small increments instead of the amount equivalent to a 100 year storm. Ms. Werner asked if Mr. Neff was comfortable with the amount of water and whether he had used the most recent numbers of a 100-year storm. Mr. Neff said that he did use the most recent numbers in his calculation. Mr. Neff said that the tank has been installed and has been working very well. Ms. Smith said that she visited the site and agrees with Mr. Neff when he says that this is a safe system. Ms. Smith did not see the trench but did see the site of where the tank was and feels that this is the best solution and would offer protection to the stream. Mr. Neff said that the water in this holding tank can be used for irrigation and as fire suppression. Mr. Yagid asked if the valve needed to be turned manually. Mr. Neff said that there is a siphon setup to release the water at a constant level. Mr. Johnson asked about the septic system. Mr. Neff said that there is a concrete tank and pump system that pumps up to the leaching field that is located at the top of the property approximately 800 – 900' up hill.

Kent Inland Wetlands Regular Minutes 06/26/2023

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Ms. Kern asked about the boulder wall. Mr. Neff said that the boulder wall was added to hide the septic tank and pump chamber on the down gradient side. The boulders will hold back the soil around the tanks. There was minimal encroachment on the stream. Mr. Neff said that the septic as built has been signed off by TAHD. Mr. Neff said that the wall was a couple of more feet closer to the stream. The boulders are large and Mr. Neff feels that they will stay in place.

Ms. Kern asked Mr. Neff about the foundation surround. The latest proposal is to install something a little more pleasing and the proposal is a grid system held in place with gravel. Mr. Neff said that there was no danger of extra water coming off the site with this new system. Mr. Neff said that he believes the new system is a good choice.

Ms. Werner said that the Commission knew that this would be a challenging site but she wished that, in the future, changes such as these would be ongoing conversations. Ongoing conversations would enable the Commission to achieve their main mission which is to protect the environment and water conditions. Mr. Neff noted that the rootspace system was something that came from the landscape architect and the impact to the foundation was not really identified until later on. Ms. Werner emphasized that reviewing all of this information would have been more beneficial as it was happening and bringing it forward to Ms. Kern earlier on in the process would be much better. Mr. Yagid agreed. Ms. Werner said that being proactive would have eliminated much of the angst during this process.

Ms. Kern said that she would like to make sure that the Commission is okay with the site and the changes before she moves forward with the Certificate of Compliance. Ms. Werner said that she was concerned with the rain gardens and the fact that native plants have not been planted as of yet. Ms. Smith said that the grass was working fine and did not think it would be beneficial to require native plantings in future applications.

*Ms. Smith moved to approve Modification Request #2, Application #1190-19, Howard & Donna Smith, 81 Kent Hollow Rd, Map 16, Block 24, Lot 1, construction of single-family home, driveway, septic, underground utilities and associated site work – **modification to include after-the-fact replacement of Rootspace system with 10,000-gallon underground stormwater storage tank and boulder retaining wall adjacent to the septic pump chamber and proposed geocell permeable mat, revised stairway, outdoor grilling area and removal of walkway cover.** Mr. Yagid seconded and the motion carried unanimously.*

5.B. Application #1323-23, Stefan Peters, 99 Macedonia Rd, Map 2, Block 5, Lot 13, buried propane tank and buried power line from pole.

Ms. Kern reminded the Commission that the property owner has been in front of them with modifications before. Mr. Peters said that he had received to Ms. Kern's request for additional information. He continued that he forwarded the requests to the engineer but he had not heard back from him; therefore, Mr. Peters put the information on the plan himself. The proposed LP tank is 26'6" from the stream but it can be moved if the Commission requires it. With regard to the delineation of the wetlands, none of them are included on the plans since the engineer will not release his cad drawings. They can be added to the plans if needed. With regard to the patio in the back, that was part of the previous application. It will be reduced in size because the area is full of ledge.

Ms. Werner said that the Commission cannot act on this application tonight and asked that Mr. Peters use the previous plan that shows the wetland delineation. She commented that the information can be put in manually by hand. Ms. Werner said that she did not know what kind of risk LP is to a

Kent Inland Wetlands Regular Minutes 06/26/2023

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wetland/watercourse. Ms. Werner asked why this was the perfect location. Mr. Peters said that it would be easy for the installer to fill the tank and that no trees will be cut down during the installation.

Mr. Yagid said that he would like to see the delineation of the wetlands and could understand why Mr. Peters wanted the tank in the proposed location. He continued that he did not think a leak would impact the stream due to the fact that any leakage would go upwards. It was noted that silt fencing is currently in place.

It was decided that those Commissioners who wanted to see the site could stop by on their time.

Ms. Kern said that the patio was not in any of the modifications and just wanted to make sure that the Commission is aware of its location. Mr. Peters said that there is a Volkswagen size rock above the patio area which means that the patio size will be reduced. They were planning on adding a deck on 7 piers above the rock. Ms. Werner asked what will happen to the dirt from the piers. Mr. Peters said that the dirt will be used on the property. All stones are coming from the property. The Commission said that they had no problem with the change to size of the patio and the inclusion of the deck.

Mr. Johnson moved to continue Application #1323-23, Stefan Peters, 99 Macedonia Rd, Map 2, Block 5, Lot 13, buried propane tank and buried power line from pole. Ms. Smith seconded and the motion carried unanimously.

- 5.C.** Application #1324-23, Northwest Connecticut Land Conservancy, Cobble Rd, Map 9, Block 22, Lot 93, two pedestrian and mower stream crossings.

Ms. Kern said that no one was present to address the Commission but that the applicant had presented a lot of information. Ms. Smith said that she walks this area all the time and feels that the work being proposed is better than what had been done in the past.

Ms. Smith moved to continue Application #1324-23, Northwest Connecticut Land Conservancy, Cobble Rd, Map 9, Block 22, Lot 93, two pedestrian and mower stream crossings. Mr. Johnson seconded and the motion carried unanimously.

- 5.D.** Application #1325-23, Robert & Jane Harrison, 69 Treasure Hill Rd, Map 17, Block 25, Lot 6, removal of underbrush in a regulated area with machinery.

Ms. Lizana was present to address the Commission. Ms. Kern said that this application came in late this afternoon and did not have any time to really look at the information. She continued that there are conserved areas on the property and wanted to make sure that none of the proposed work was within those areas. Ms. Lizana said that she was not aware of that and said that the property owners had previously been before the Commission for an addition. Ms. Werner said that the Commission will need to know the exact areas of underbrush removal and who the owners of the easement are.

Ms. Lizana said that the area to be cleared would be the woodland between the house and pond. There are some dead trees and invasives such as multiflora rose, honeysuckle and bittersweet. The purpose of the proposed work is to clear out the undergrowth to help the existing trees. There is no plan to plant natives at this point in time and this plan would be executed on a yearly basis. Currently, the property owners have the other side of the pond mowed.

Kent Inland Wetlands Regular Minutes 06/26/2023

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Ms. Werner said that if there was no replanting, the stream could be impacted. Ms. Lizana said that the roots would remain so there would be no erosion. Ms. Werner continued that executing this proposed plan on a yearly basis would result in an area that would eventually just be grass and felt that it would be better to leave the invasives if not replanting with natives. Ms. Smith agreed and stated that improving the viewshed of the pond itself by transforming the understory of the area to grass would be something the Commission would discourage. Ms. Lizana said that it would be challenge to plant the area with natives as they would be required to remove the existing root systems creating a more invasive action. Ms. Werner replied that in the long term, the quality of the pond would be better and it might be a good compromise. Ms. Smith suggested choosing lower growing native plants and felt that removing the invasives would be a short term disturbance with a long term benefit. Ms. Lizana stated that the east and north border of the pond was approximately ½ acre and they might want to replace with natives gradually to limit the soil disturbance.

Mr. Yagid how large the trees in decline were and Ms. Lizana replied that they were about 20' ash trees. Mr. Yagid asked if they would have to be taken down and dragged out. Ms. Lizana agreed and said that they would be using a mini excavator with a brush hog attachment.

Ms. Werner asked Ms. Lizana to work with Ms. Kern in order to provide more information with regard to what will be removed; the conservation easement(s); and possible replanting of natives.

Mr. Yagid moved to continue Application #1325-23, Robert & Jane Harrison, 69 Treasure Hill Rd, Map 17, Block 25, Lot 6, removal of underbrush in a regulated area with machinery. Mr. Johnson seconded and the motion carried unanimously.

6. COMMUNICATIONS TO THE COMMISSION

A. WRITTEN

No action taken.

B. VERBAL

Discussion and possible referral to BoS for appointment of Jeff Galusha to fill vacant alternate seat.

Ms. Smith said that Mr. Galusha had been on the Commission many years ago for 3 or 4 years, left the area but has returned and is now employed by the South Kent School.

Mr. Yagid moved to recommend to the Board of Selectmen the appointment of Jeff Galusha as an alternate to the Inland Wetlands Commission. Ms. Smith seconded and the motion carried unanimously.

Kent Inland Wetlands Regular Minutes 06/26/2023

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7. **ADJOURNMENT**

Ms. Smith moved to adjourn at 8:22 p.m. Mr. Yagid seconded and the motion carried unanimously.

Respectfully submitted,

Donna M. Hayes

Donna M. Hayes, CZEO
Assistant Land Use Administrator

Kent Inland Wetlands Regular Minutes 06/26/2023

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