

TOWN OF KENT INLAND WETLANDS COMMISSION

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REGULAR MEETING MINUTES

The Inland Wetlands Commission held a regular meeting on Monday, July 25, 2022, via Zoom.

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 Deitz, Ken Johnson, Anthony Palumbo,
Marge Smith, Paul Yagid

Staff Present: Donna M. Hayes, LUA

3. READING OF MINUTES OF PREVIOUS MEETINGS

3.A. Regular Meeting Minutes, June 27, 2022.

Ms. Smith moved to approve the Regular Meeting Minutes, June 27, 2022 as presented. Mr. Yagid seconded and the motion carried unanimously.

4. NEW BUSINESS

4.A. Application #1285-22, Dan and Sheryll Robb, 273 Kent Road, Map 6 Block 12 Lot 3, construction of 26' x 20' detached garage with electrical service and minor changes to paved driveway.

Mr. Bart Clark was present representing the applicant. He explained that the application is for the construction of a detached garage on a piece of property located along Route 7. The property is located across from the river, consists of approximately 2+ acres with many mature trees, has an existing house and pond. The proposed garage will be 20' x 26' and will be built on frost walls. When asked how close the proposed garage was to the actual wetlands, Mr. Clark responded that it was approximately 4'. He continued that the wetlands have not been flagged by a soil scientist. In addition to the wetlands, there is an intermittent stream and as far as Mr. Clark can tell, the entire piece of property is in a regulated area with only the leaching fields outside of it.

Mr. Johnson asked if the new garage would alter the flow of any water and Mr. Clark responded that there will be minimal grade change.

Kent Inland Wetlands Regular Minutes 7/25/2022

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. Werner asked if the garage could be moved farther back from the wetland boundary and Mr. Clark said that would place the garage on top of the driveway which would not provide any turn around space and the driveway cannot be moved because of the location of the leach fields.

Ms. Werner asked if the wetland area was swamp or open water. Mr. Clark responded that there is a flat area just south of the proposed garage which acts like a terrace. At the bottom of the terrace, the area drops off into the intermittent stream with swamp on the farther side consisting of skunk cabbage.

Mr. Palumbo asked if they would be using all of the material from the stockpile area. Mr. Clark responded that some of it will be taken off site but the topsoil will be stripped away and reused. Mr. Palumbo asked if there would be two separate piles and Mr. Clark said that the contractor might keep them separate, it would be up to him, and there is plenty of room.

Mr. Johnson asked if there was a concern about water seeping into the footings. Mr. Clark responded that it would all depend what time of year the construction starts. They will remove the soil and put down ¾" stone; this will prevent any heaving of the pad during the winter months.

Mr. Yagid asked if there was anyway that the construction would extend beyond the silt fence. Mr. Clark did say that the work will be tight against the silt fencing but said that there will not be any digging or machinery located in the wetlands. Mr. Yagid asked if the area would be replanted; Mr. Clark said it would.

Ms. Werner expressed concern about machinery being in the wetlands and asked Ms. Hayes to do a site walk with Mr. Clark. When asked if the wetland or the garage had been flagged, Mr. Clark replied that neither had been done. It was decided that Ms. Hayes would speak to Mr. Clark about setting something up during the week of August 8th. Mr. Johnson would also be in attendance.

Mr. Yagid moved to continue Application #1285-22, Dan and Sheryll Robb, 273 Kent Road, Map 6 Block 12 Lot 3, construction of 26' x 20' detached garage with electrical service and minor changes to paved driveway to the next regular meeting. Mr. Johnson seconded and the motion carried unanimously.

5. OLD BUSINESS

- 5.A.** Application #1282-22, Carl Raab, 56 South Road, Map 10 Block 40 Lot 46, excavation to create small pond; use existing stone to retain banks and landscaping.

Both Mr. Raab and Mr. Finucane were present to address the Commission. Since Ms. Werner could not attend the site walk, she asked for an update. Ms. Smith said that she did not think this was a vernal pool; there was no evidence of where the water is coming from; there was an area with many rocks that was damp but contained no plants; the area around the area in question was filled with ferns and some phragmites; and wondered if there was enough water to support the pond.

Mr. Finucane commented that he first met with Mr. Raab last August/September and there was approximately 2' of water in the pond. He believes that there is some sort of spring feeding the pond but due to the dryness of this summer, he is not surprised that the area was not filled with water.

Mr. Johnson said that in response to Ms. Werner question about whether or not the creation of this pond would create a new eco-system or hurt the surrounding wetland area, he did feel that it could create a new eco-system and not hurt or alter anything that is currently there. He continued that there was relatively damp ground under the weeds.

Mr. Yagid asked Mr. Finucane if he had dug any test holes and he replied that he had not.

Mr. Johnson said that he asked if it would be possible to install a membrane and pump water into the pond from Mr. Raab's own well. Mr. Finucane said that he thought a membrane would be useless and feels that the water is sitting just below the surface. Ms. Smith said that she did not like the idea of a membrane; Mr. Yagid agreed.

Ms. Werner said that the question still remains regarding whether or not the installation of this pond would be destroying an existing wetland habitat or enhancing it. Ms. Smith said that it would be hard to judge that especially since the area they were in was filled with ferns. She continued that she assumes that the water seeps towards the neighboring pond, but it was hard to see that. Ms. Smith said that turning it into a pond could be a positive if it worked.

Ms. Werner asked the Commission if they would feel more comfortable having someone with the scientific knowledge answer the question about whether or not creating the pond would create more good than bad. All the Commissioners agreed that would be the best avenue to pursue. The Commission asked Ms. Hayes to contact Ms. Rabinowitz for advice on this issue. Ms. Hayes also asked Mr. Raab to supply the Commission with the information that Ms. Rabinowitz gave him.

Mr. Yagid moved to table Application #1282-22, Carl Raab, 56 South Road, Map 10 Block 40 Lot 46, excavation to create small pond; use existing stone to retain banks and landscaping. Ms. Smith seconded and the motion carried unanimously.

- 5.B.** Application #1283-22, Lisa Turoczi, Earth Tones, LLC, for Katherine Freygang, 45 Richards Road, Map 16 Block 25 Lot 19, install wet meadow and 10' x 15' crushed stone sleeve.

Ms. Turoczi was present representing the applicant. She informed the Commission that she had provided two more maps which contained the information that the Commission had asked for at last month's meeting.

Since the application was now complete and there were no further questions from the Commission, the following motion was made:

Mr. Yagid moved to approve Application #1283-22, Lisa Turoczi, Earth Tones, LLC, for Katherine Freygang, 45 Richards Road, Map 16 Block 25 Lot 19, install wet meadow and 10' x 15' crushed stone sleeve. Ms. Smith seconded and the motion carried unanimously.

- 5.C.** Application #1284-22, Wayne Fontaine, Fontaine Construction, for Adam Richichi, 90 Gorham Road, Map 15 Block 22 Lot 4, construction of new single-family dwelling with attached garage, driveway, septic, well and associated site work.

Mr. Fontaine was present to address the Commission. He explained that he added the limit of disturbance to the site plan which showed an area closer to the proposed house. Mr. Fontaine explained that the property owner was insistent on keeping the area of disturbance as small as possible and that they will leave as many trees as possible around the house.

Ms. Hayes asked how many large trees would be removed. Mr. Fontaine said that between 40 and 50 large trees would need to be removed. When asked for the diameter of those trees, Mr. Fontaine said that they were between 10" with some between 15" to 20".

Ms. Werner said that at the last meeting they had talked about a new location for the house, but due to the conservation restrictions, there was no other possible location. Mr. Fontaine assured the Commission that they would not be taking down any trees outside of the limit of disturbance.

Mr. Yagid commented that the conservation easements usually follow the wetland boundary and wondered why it was so different in this instance. Mr. Fontaine said that the conservation easement followed the original wetland boundary, but as part of this project they had the wetlands re-delineated for this application.

Ms. Smith moved to approve Application #1284-22, Wayne Fontaine, Fontaine Construction, for Adam Richichi, 90 Gorham Road, Map 15 Block 22 Lot 4, construction of new single-family dwelling with attached garage, driveway, septic, well and associated site work. Mr. Johnson seconded and the motion carried unanimously.

5.D. Possible Notice of Violation, Stanley Greenbaum, 247 Bulls Bridge Road, Map 6 Block 11 Lot 1, refuse and work done in a regulated area.

Ms. Werner explained that she was just going to react to the email that was sent between Ms. Cynthia Rabinowitz and Mr. Greenbaum because she is concerned that there was a miscommunication or a misunderstanding on either her part or Mr. Greenbaum's part. Ms. Werner continued that she believes that she has been consistent with her request to have the wetlands delineated on a new map by the Northwest Conservation District. She told Mr. Greenbaum that she was confused as to why he thought she had asked him to do the map. Ms. Werner said that she certainly had not asked him to do the map. She said that she wants to clear that up for the record. Ms. Werner said that the Commission is looking for a map of the wetland area on Mr. Greenbaum's property from the Northwest Conservation District so that Mr. Greenbaum and this Commission, in the future, can avoid conflicts, concerns and back and forth arguments. Ms. Werner asked Mr. Greenbaum if that was clear and said that she wants to clarify his understanding of what occurred at the last meeting and at meetings before that. Mr. Greenbaum thanked Ms. Werner. Ms. Werner continued that the Commission is in a position of waiting for Ms. Rabinowitz to be able to work into her schedule the ability to create the map. She asked Mr. Greenbaum if he would, hopefully, give Ms. Rabinowitz permission to enter onto the property when she has the opportunity to do so.

Mr. Greenbaum replied that at the preset time he would not agree to that. He continued that he had yet to review 424 pages of documents that he requested from the Land Use Administrator. When he has completed that process, then a conversation can be had. Mr. Greenbaum continued that up until now the misrepresentations here have been unbelievable. The Land Use Administrator has insisted vociferously that activity was occurring in a wetland. Ms. Rabinowitz had determined that it was not a wetland and there has been no other activity. Ms. Werner told Mr. Greenbaum that the Commission is trying to determine where the wetland boundary is so that the Commission can avoid this conversation with him in the future, which Ms. Werner was sure Mr. Greenbaum would like to do. Mr. Greenbaum said that it has taken 40 years to have this conversation for the second time and believe that it can wait another month or two. Ms. Werner said that was fine; she just wants to be clear that this is why it is being requested; it's not to punish him or extend his frustration with the Commission; it's strictly to solve the riddle. Mr. Greenbaum said that he will clear up whether or not there was a violation here and believes that there was no violation. Mr. Yagid asked Mr. Greenbaum if he believed a map would show everyone and then the Commission would say if there was a violation or not. Mr. Greenbaum replied said that he just spent \$200 on copies of files so he is going to go through the record and he'll determine whether the records show his point of view.

Ms. Werner said that she believes Ms. Rabinowitz has some of the information she needs but she needs to get back on to the property to verify and if Mr. Greenbaum wanted to take the time to do that, that's fine. Ms. Werner asked Ms. Hayes if there was a timeline ticking with regard to a potential violation. Ms. Hayes said there was not. She continued that there's no time limit at this time. Mr. Greenbaum commented that Ms. Hayes had not cited for

him a violation so this can't go on forever. Ms. Hayes said that she cannot decide to issue a violation until she has the map from Ms. Rabinowitz. Ms. Werner agreed and said that once the information is received, the Commission will make a determination one way or the other.

Ms. Werner asked to clarify with Mr. Greenbaum that he wants a month to review the materials and then will consider scheduling a site visit with Ms. Rabinowitz to complete the mapping process. Mr. Greenbaum said that he will make an appointment with Ms. Hayes when she returns from vacation on the 8th of August to a further review of the some of the materials that she has given him and that's the next step. Ms. Werner said that to be fair to Ms. Rabinowitz, the Commission needs to give her a sense of timing due to hectic her schedule. Mr. Greenbaum replied that Ms. Rabinowitz is not the only soil scientist in the state of Connecticut. Ms. Werner asked if the Commission could tell Ms. Rabinowitz that the intention would be that she could do the mapping within a month or two. Mr. Greenbaum said that he will not express an intention at this time.

Ms. Werner said that potential violation will remain on the agenda until the Commission has an answer. Mr. Greenbaum said that he thinks the Commission has to make a determination whether they are saying there is a violation or not. Ms. Werner said that the information is needed before the Commission can make that decision. There be no other questions from either the Commission or Mr. Greenbaum, the Commission moved on to the next agenda.

6. COMMUNICATIONS TO THE COMMISSION

A. WRITTEN

6.A.1. Monthly Financials – None provided

B. VERBAL

Ms. Hayes advised the Commission of the following:

- The work along the shoreline of Lake Waramaug was complete and came out great. The Commission asked for some pictures for the file.
- Two years ago, Mr. Bibb had done some work on the lower portion of his front yard. At that point in time the Commission asked Ms. Hayes to put a site visit on her calendar. She told the Commission that when she went to look at the work done along the lakeside, she also looked at Mr. Bibb's property and was happy to report that it looks good. The Commission asked for some pictures for the file.
- She will be on vacation from August 1st to the 8th.

7. ADJOURNMENT

Ms. Smith moved to adjourn at 8:14 p.m. Mr. Yagid seconded and the motion carried unanimously.

Respectfully submitted,

Donna M. Hayes

Donna M. Hayes, CZEO
Land Use Administrator