

TOWN OF KENT INLAND WETLANDS COMMISSION

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RECEIVED

By Darlene Brady at 10:37 am, May 23, 2023

REGULAR MEETING MINUTES

The Inland Wetland Commission held a regular meeting via zoom on Monday, May 22, 2023, beginning at 7:00 p.m.

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 Johnson, Anthony Palumbo, Marge Smith, Ken Deitz (arrived at 7:09 p.m.), Marge Smith left the meeting at 7:10 p.m. and returned at 7:30 p.m.

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

Ms. Smith moved to elevate Mr. Palumbo to voting status. Mr. Johnson seconded and the motion carried unanimously.

3. READING OF MINUTES OF PREVIOUS MEETINGS

3.A. Regular Meeting Minutes April 24, 2023.

Ms. Smith moved to approve the Regular Meeting Minutes April 24, 2023, as presented. Mr. Johnson seconded and the motion carried unanimously.

4. OLD BUSINESS

4.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 was present to address the Commission. He explained that the 1+ acres from the adjoining property was added to the site plan. Everything else that was presented at the last meeting remains the same. There will be no construction for the subdivision. There were no other questions from the Commission and no other information was supplied by the applicant.

Kent Inland Wetlands Regular Minutes 05/22/2023

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Ms. Smith moved to approve Application #1316-23, Judith Landrigan, Trustee (Brian Neff), 160 Ore Hill Road, 2 lot re-subdivision, with no construction or site disturbance. Mr. Johnson seconded and the motion carried unanimously.

- 4.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.

Mr. Poynton was present representing the applicant. There was no additional information presented to the Commission or changes to the original application.

Ms. Smith moved to approve 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.

Member Ken Deitz was seated at 7:09 pm and Marge Smith stepped down left the meeting.

5. NEW BUSINESS

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

Ms. Nancy Banffy was present to address the Commission. Ms. Werner asked where the drainage was located and Ms. Banffy responded that there is a "brook" that runs through all of the properties in the subdivision. Ms. Kern said that a previous Inland Wetlands agent identified the drainage as a "brook". Ms. Werner asked about associated wetlands and asked what the distance was to the shed. Ms. Banffy explained that it was really just an intermittent stream captured by a pipe. Ms. Kern said that there are other wetland soils on the property but they are not clearly defined. Ms. Werner asked Ms. Kern to visit the site to better delineate the wetland area. Ms. Werner asked Ms. Banffy if there will be digging during the installation. Ms. Banffy said that there will be no digging. Ms. Banffy described that gravel will be placed on top of the ground and the shed will be placed on top of the gravel.

Mr. Johnson said that he is familiar with the property and the drainage and believes that there will not be any impact on the wetlands. Ms. Werner agreed but the Commission still needs the application to be complete. It was decided that Ms. Kern take a quick look at the property and report back to the Commission at the next meeting.

Ms. Kern said that she will visit the site and take some pictures of the area. She explained that the wetlands were mapped, but insufficiently. Mr. Palumbo suggested that the subdivision map might be a good resource for the location of the wetlands.

Mr. Deitz moved to continue Application #1318-23, Nancy Banffy, 21 Highland Rd., Map 5, Block 12, Lot 93, pre-built shed and associated fill to the next regular meeting. Mr. Palumbo seconded and the motion carried unanimously.

- 5.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.

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Mr. James Laporta of Litchfield Hills Solar was present to address the Commission. Ms. Werner said that the concern was the distance to the stream, but she questioned whether or not there were any wetland areas.

Mr. Laporta explained the process of the installation. He said that when he was walking the property he did see the stream, which was not running at the time, but there was evidence that it does run. There will be an 18" trench going from the array to the shed.

Ms. Kern said that it is a well-developed site with an open lawn area. There will be no tree cutting necessary as a result of the installation.

Mr. Johnson moved to continue 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 to the next regular meeting. Mr. Deitz seconded and the motion carried unanimously.

- 5.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.

Mr. Mason Lord represented the applicant before the Commission. Ms. Kern said that there is a stream that feeds the pond on the southern side of the property. This pond is feed by two separate streams that run on the property.

Mr. Lord said that the barn is right on the property line and the wetlands to the north is creating deterioration to the barn sills. The water is flowing south and splits with most of the water hitting the barn. The water migrating south will be redirected by collecting it in a rubber membrane and then into a pipe to the brook. Ms. Werner asked if this redirection would deplete one of the existing brooks. Mr. Lord said that he did not think so. The existing pond outflow is to the south of the pond.

Mr. Deitz commented that there is no legend; Ms. Werner asked that it be supplied for the next meeting. It was also suggested that the engineer, Mr. Pat Hackett, attend the next meeting to answer specific questions regarding the redirection of the water. Mr. Deitz also commented that without the legend the application is incomplete.

Mr. Deitz asked about the removal of a dying maple. Mr. Lord said that it is included in the site plan. Mr. Deitz asked that this be added to the application. During the review of this, Mr. Deitz was able to identify some of the drainage plan, but there were still some questions with regard to the direction of the flow of the water. Mr. Deitz was also asking about limits of disturbance, location of haybales, and a more complete explanation of the work. It was also requested that the location of the soil stockpile be included along with what will happen to the soil.

Mr. Lord said that in addition to the application, there was a letter from the adjoining property owner expressing agreement with the work.

Mr. Deitz moved to continue 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 to the next regular meeting. Mr. Palumbo seconded and the motion carried unanimously.

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Member Marge Smith returned to the meeting and was reseated.

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

Mr. Osborne was present to address the Commission. He explained that this was an emergency repair due to damage caused by one of the Town's trucks driving over it during the project to regrade River Road. Mr. Osborne said that they shored up what needed to be shored up and replaced the broken planks. He informed the Commission that there was a temporary walkway installed during this time to accommodate people walking River Road.

Ms. Smith said that she walked over the temporary walkway and commended Mr. Osborne on the work that was done.

Mr. Johnson moved to continue Application #1321-23, Town of Kent (Rick Osborne), Choggam Brook Bridge River Road, emergency replacement of bridge decking to the next regular meeting. Mr. Deitz seconded and the motion carried unanimously.

6. COMMUNICATIONS TO THE COMMISSION

A. WRITTEN

103 Geer Mountain Rd., Cynthia Rabinowitz, NWCD Opinion

Ms. Werner asked if everyone had read the report. She continued that she was unsure what the message was and assumed that a study needs to be done. Ms. Kern said that Ms. Rabinowitz believes the buildup had occurred over time and that someone should come in with an application to reset the channel stream. This work should be done on 103 Geer Mountain Road. Ms. Kern shared the information with the owner of the property and also the owner of 111 Geer Mountain Road. Ms. Rabinowitz also had some suggestions on the distribution of the water from 111 Geer Mountain Road which would entail a channelization into Ms. Wendy Murphy's Pond, but permission from Ms. Murphy would be required. Ms. Kern said that the owner of 111 Geer Mountain Rd was not pleased with the report. She believes that the next thing would be to have a study done by a professional in order to determine the best way to handle the issue. Ms. Kern believes that this work should be done via an application submitted by the property owners. Ms. Kern said that she sent the information to the property owner of 103, 109, and 111 Geer Mountain; there was no response.

Ms. Werner said that the Commission has exhausted all of their avenues to solve this issue and it is up to the property owners to submit the proper application to rectify the issue. Ms. Kern said that she will reach out to the property owners again and supply them with the application to move forward. Ms. Werner stressed that water issues are everyone's problem and it is up to the property owner to submit a proper application.

B. VERBAL

Report on status of Wetlands Citation Ordinance

Ms. Kern reported that she and Mr. Yagid presented the Ordinance to the Board of Selectman. It seems that there were no issues and the process is now to go to Town Meeting. The date is to be determined.

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Ms. Kern said that she had one additional question regarding 81 Upper Kent Hollow Road. She reminded the Commission of the previous discussion they had with the property owner with regard to plantings. A letter was submitted by Sam Sabin, Landscape Architect, that said that fescue was planted in the rain gardens in place of the originally proposed plantings. He said that the installation of fescue will enable the rain gardens to operate as planned and that the originally proposed plantings will be done at a later date. Mr. Neff, Engineer for the project, agreed with Mr. Sabin's determination. Ms. Werner said that she does not know a lot about plants and deferred to Ms. Smith. Ms. Smith said that she did not remember the exact approvals and thought the fescue might work. Ms. Kern reminded the Commission that a lot of plantings were required due to the sensitivity of the property and its impact on the watercourse on the property. Ms. Werner said that the approval of the permit was based partly on the plantings. She would like to see the changes on a plan and have a representative come before the Commission to formally request the changes and provide an explanation for the changes.

Mr. Deitz said that there could be some confusion on exactly what is required especially when there is a general discussion on the work proposed. Ms. Werner explained that the application, comments, motions and the minutes are all part of the approval and the record. She said that if Mr. Deitz does not think the Commission is being clear on that, he should bring that forward at the time of the discussion/motion.

It was decided to go back and look at the original approval specific to the planting plan and possibly amend the application/approval at next month's meeting based on the information provided by the property owner's representative.

7. ADJOURNMENT

Ms. Smith moved to adjourn at 8:16 p.m. Mr. Deitz seconded and the motion carried unanimously.

Respectfully submitted,

Donna M. Hayes

Donna M. Hayes, CZEO
Assistant Land Use Administrator