

**Inland Wetlands & Watercourses Commission
Regular Meeting
Wednesday, October 5, 2022, 7:00 p.m.
Robert F. Parisi Council Chambers
Second Floor, Town Hall
45 South Main Street, Wallingford, CT**

MINUTES

Chair James Vitali called this Regular Meeting of the Wallingford Inland Wetlands & Watercourses Commission to order on Wednesday, October 5, 2022, at 7:09 p.m. in the Robert F. Parisi Council Chambers, Second Floor of Town Hall, 45 South Main Street, Wallingford, CT.

PRESENT: Chair Vitali, Vice Chair Deborah Phillips, Secretary Nick Kern, Commissioners Jeffrey Necio and Michael Caruso, and Alternate Members James Heilman and Aili McKeen, and Environmental Planner Erin O'Hare.

ABSENT: Alternate Member Mrs. Caroline Raynis.

There were eight persons in the audience. A number of persons entered the Meeting later for other applications.

A. PLEDGE OF ALLEGIANCE

The Pledge was recited.

B. ROLL CALL – As above.

C. CONSIDERATION OF MINUTES

1. Regular Meeting, Sept. 7, 2022

The Recording Secretary made two corrections: 1) on p. 1 in paragraph 1 to insert after “to order” the words “on Wednesday, September 7, 2022,” and 2) on p. 18 at G. RECEIPT OF NEW APPLICATIONS, in Item 2, to correct the Application number to be “#A22-8.2”. And Ms. O'Hare made this correction : 3) on p. 1 under Present to add that Alternate Member Mrs. Caroline Raynis joined the meeting at 7:11 p.m. and also to add this on p. 2.

MS. PHILLIPS: MOTION TO ACCEPT THE MINUTES OF THE REGULAR MEETING OF SEPTEMBER 7, 2022, AS SUBMITTED WITH THE CORRECTIONS MADE TONIGHT.

MR. NECIO: SECOND.

VOTE: MS. PHILLIPS – YES; MR. NECIO – YES; MR. HEILMAN - YES; MR. CARUSO – YES; CHAIR VITALI – YES.

Chair Vitali stated that the five Regular Members would be voting tonight.

D. CONSIDERATION OF PUBLIC HEARING ITEM

1. #A22-5.1 / 5 Research Parkway – 5 Research Parkway, Wallingford, LLC -- (warehouse

Development) – Significant Impact Activity – (public hearing closed 9/14/22, 5:00 p.m.)

In the audience were Attorney Dennis Ceneviva of Meriden representing the Owner/Applicant, Mr. Chris Gagnon, P.E., Project Manager from BL Companies of Meriden, and Mr. Jeffrey Checkoway.

Tonight the Commission received the Environmental Planner's Report for this Application dated today, Oct. 5, 2022.

Chair Vitali said, This public hearing has been closed, and we have a set of procedures here for dealing with public hearings before us. I believe the Commissioners in this room didn't talk to anybody. But I would ask Nick Kern and the regular sitting members: Do you feel capable of voting on this public hearing tonight by reviewing the Minutes that were received, by studying Erin O'Hare's reports, and by watching the videos that's been on? Do you feel comfortable about being able to vote?

Commissioner Kern said, I feel comfortable. I've sat home watching on TV, so I feel comfortable making a decision. I may not have asked questions, but they were answered/asked by somebody else, and I reviewed enough on television.

Chair Vitali said, The memo indicated that only the five Regular Members can discuss how we're going to come up with the vote: Nick Kern, myself, Debbie Phillips, Jeff Necio, and Michael Caruso. One of the major issues with this Application is in Erin O'Hare's memorandum dated today, 10/5. It behooves us to sit for a moment and read it because it's a major part of what we're deciding tonight. So let's take a couple of minutes to read Erin's memo.

Then Chair Vitali resumed: It's right on the first page: Your "findings and reasons therefore shall be stated on the record in writing." Erin, your instruction is based on a particular item or on the whole project?

Ms. O'Hare said, On the whole project.

Chair Vitali said, So is there a feasible and prudent alternative?

Ms. O'Hare said, For each regulated activity, see on p. 2.

Chair Vitali said, It's going to be difficult to talk about the various activity categories. I'd invite comments from the Commissioners.

Chair Vitali read from p. 2:

1) Drawing down of water level in the Small Pond to 2 feet below outlet pipe.

Chair Vitali said, This is a temporary drawdown?

Ms. O'Hare said, During the construction phase.

2) Introduction of temporary construction runoff discharge to existing Small Pond from upgradient construction activities.

Chair Vitali said, That's what they're using the Small Pond for. I don't see a feasible alternative or improvement to that.

3) Installation of silt fence within several feet of edge of Small Pond for the proposed driveway

improvements.

Chair Vitali said, That is something we would want on any application, silt fence involved.

4) Introduction of temporary construction runoff from a 1.6-acre temporary sediment basin discharge outlet to Upland Review Area, hence to wetlands and hence to the Muddy River.

5) Discharge of post-construction stormwater to Small Pond with volumes of flows to be received less than existing volume of flows due to the decrease in the size of the contributory drainage area from 37 acres to 7 acres.

Chair Vitali said, Where does the rest of the water go, Erin, of the drainage go?

Ms. O'Hare stated it goes to the 1.6-acre large new detention basin they're going to build. There's only two places it goes: like 30% goes to the Small Pond and 70% goes to the large detention basin they're going to build. Today that Small Pond takes everything from the old headquarters site and all the old parking—it takes all of that. So it's going to take a lot less if this is built out because all of that is going to go to that large detention basin. And that's why it has to be so big, because it's going to take that whole warehouse and all of the parking area around the warehouse. It's going to take all of that to the new large detention basin.

Chair Vitali asked, Commissioners, any comments on that?

There were none.

6) Introduction of new flows of Upland Review Area and hence to wetlands and Muddy River from proposed 1.6 acre sediment basin discharge of treated runoff post-construction.

7) Creation of a 12-acre net increase in surface area related to the construction of the 450,000-square-foot warehouse and associated parking area and drives on the site of the former Bristol Myers headquarters building and parking area, entailing significant cut-and-fill operations.

Chair Vitali said, Wow. When you say "surface area", you are referring to impervious surface area?

Ms. O'Hare said, Yes, the creation of impervious and semi-impervious, like gravel, would be included. They were allowed to net out the original surface of the original headquarters and the original parking area that's impervious there today. So under our regulations they get to net that out and, under our regulations, that's the new 12 acres that they're going to pave. They submitted drawings tonight to that effect. I guess the whole thing is 37 acres.

Chair Vitali summed up: So the Applicant's purpose for, and any feasible and prudent alternatives to, the proposed regulated activity, which alternatives would cause less or no environmental impact to wetlands and watercourses.

Ms. O'Hare said, During the summer we looked at alternatives, or staff, but they couldn't do what was being asked. And the Wetlands Scientist went through alternatives. But under #7, is the creation of the surface area. They responded with erosion control methods. For your average storm I think this site will perform well. For the big storms, I'm somewhat concerned. This footprint is almost the same as proposed in 2018. It's a significant cut and fill operation. They are cutting down 60 feet of slope on the east and they're building a wall, to 40 feet, on the west side of the warehouse.

Chair Vitali said, There's to be inspectors out there to do monitoring and reports. As to C) relationship between short-term and long-term impacts on wetlands and watercourses, Erin?

Ms. O'Hare said, This gets to what the persons in the audience talked about. They mentioned oil on the road, de-icing, and diesel over time. And they were concerned about long-term impacts to wells and

watercourses. The scale of the project could be cut back, and the Applicant didn't want to do that. But the Water Division has exacted improvements for other de-icing materials on the pavement. There's a typo: I wrote "non-chloride" use on the roads, but it's to be "non-sodium chlorides" to be used.

Chair Vitali asked about D): Irreversible and irretrievable loss of wetlands or watercourse resources, which would be caused by the proposed regulated activity including the extent to which such activity would preclude or foreclose a future ability to enhance or restore such resources.

Chair Vitali iterated the other items in Ms. O'Hare's memorandum. There were no comments here from the Commissioners.

Commissioner Kern asked, If you owned this property, would you leave the other piece undeveloped?

Chair Vitali, No, not forever. I can't see why there wouldn't be more activity on the site. But we have what is in front of us now. I just wanted to be sure we were being covered by the calculations.

Chair Vitali called for a Motion, and he asked the Commissioners to explain their vote, as per Corporation Counsel Janis Small.

MS. PHILLIPS: MOTION THAT APPLICATION #A22-5.1 / 5 RESEARCH PARKWAY – 5 RESEARCH PARKWAY, WALLINGFORD, LLC, BE APPROVED

- 1. WITH THE CONDITIONS OF APPROVAL, 11 OF THEM, THAT ARE IN THE ENVIRONMENTAL PLANNER'S REPORT OF SEPTEMBER 7TH, AND CONDITION #1 HAS THE CORRECTION THAT "THE REVISIONS AND INFORMATION THAT THE APPLICANT AGREED TO AND SUBMITTED UP TO THE CLOSE OF THE PUBLIC HEARING AT 5:00 P.M. ON SEPTEMBER 14TH,"**
- 2. AND THE FOUR CONDITIONS OF APPROVAL THAT WERE OUTLINED IN THE ENVIRONMENTAL PLANNER'S REPORT OF OCTOBER 4TH, 2022,**
- 3. AND THAT THE BOND WOULD BE \$1.2 MILLION.**

MR. NECIO: SECOND.

Note: Ms. O'Hare had requested to add the bond amount of \$1.2 million, which Commissioner Phillips had then added to the Motion as Item #3.

Chair Vitali said, If there are no other comments, I'll call for a vote.

VOTE:

MR. CARUSO: YES. I do not believe a feasible or prudent alternative exists.

MR. NECIO: YES. In consideration of the facts and circumstances set forth, I believe that a feasible and prudent alternative does not exist.

MS. PHILLIPS: YES. I believe that they have explored every possible feasible and prudent alternative and there does not exist one, and that they have addressed all our concerns about the water conditions and the impact to the wetlands and our water supply.

MR. KERN: YES, being that there's no prudent and alternative measures that they can place.

Ms. O'Hare asked Mr. Kern to repeat.

MR. KERN: I voted YES because there's no prudent and feasible alternatives to the plan. Then I have a question for you, once Mr. Vitali votes.

CHAIR VITALI: My vote is **YES**, also. The feasible and prudent, I mean, we explored them during the hearing, and there would probably be something that would be prudent but it wouldn't be feasible. So I think we've covered the prudent and feasible. They've answered--staff has answered my concern about future development on the site and how that fits into the program. I think we've done—if there were something else we could have asked for, I think that we should have. But I think that we explored, and the Town has explored, all avenues of options and improvements to develop this site respectively and environmentally sound. So the vote is Yes.

Mr. Kern asked, Erin, when did we decide to vote on an application without a set of stamped and certified plans before us? And what's next?

Ms. O'Hare said, Is it stamped? This is a version of the larger site plan, yes. Next, I take what you approved tonight to go into my Notice of Decision letter, and they have to put in all those corrections on a finalized set of plans that I have to go through to make sure it's all in there. It will go to Planning and Zoning and, if approved there, then it will take two months to get the Independent Site Monitor on board as it has to go out to bid and be advertised. .

There were seven more persons in the audience at this time.

E. OLD BUSINESS

1. #A22-8.1 / 158 Mansion Road – Wayne & Paulette Rydzy – (detached garage & retaining wall)

Appearing were Mr. and Mrs. Rydzy.

Ms. O'Hare said, The Applicant wants to change the design. You could do a site walk. It has steep bank down to a stream. I'm not clear if he wants to take down trees to put a retaining wall. He got a ZBA variance for a three-car garage. He might want to shift the building. The retaining wall structure is on his survey at 18½ feet from the wetland in the Upland Review Area. There's a steep slope in between.

Chair Vitali asked, With the structure there, is there a negative impact on the wetlands?

Ms. O'Hare said, No, but there is in the act of constructing it. It's doable if it's well done. Also, roots of trees come out to the tree line—he lost trees with the microburst in 2018.

Chair Vitali said, You're talking about 16½ feet and two feet in the URA.

Mr. Kern asked, Is it at the back part where you want to put this fill?

Mr. Rydzy said, I'd want it near that.

Ms. O'Hare said, There is no wetland permit for work done behind the house. There's a deck on piers and a 30-foot retaining wall beside it, installed per the Assessor's Office in 2006. So we have to deal with the issue. The Building Department couldn't find any building permits. It's not so much for the deck, but there was a tremendous amount of fill for the patio.

Mr. Rydzy said, The house has an outbuilding on the back. I did not do all that work. I met with Ms. O'Hare, and she's telling me about what happened in 2005-06. I don't care about the deck right now.

Chair Vital asked, When did you purchase this property?

Mr. Rydzy said, In the middle of 2005.

Ms. O'Hare said the piers for the deck are 15 feet high. Normally, they would get a permit to erect the deck in the URA.

Chair Vitali asked, Are you trying for an after-the-fact permit now?

Commissioner Kern asked, Would this be in violation, Erin?

Ms. O'Hare said, In 1990, we added the 50 feet Upland Review Area from the wetlands area.

Commissioner Kern said, There's two things: 1) To get a permit for what he's already done; and 2) to get permission for the garage?

Ms. O'Hare said, Mr. Rydzy now wants the retaining wall to go around.

Mr. Rydzy said, We had to show something that's approved. I don't have a plan to build upon it. This here was to satisfy P&Z. If I modify it, it's for the shift of the wall.

Chair Vitali said, Your next step is to get a contractor or an engineer to decide the best place for this 3-to-6 car garage, and you need a written quote.

Ms. O'Hare asked, Do you want to modify the retaining wall?

Chair Vitali said, I don't know where you want to construct your retaining wall, and not to stay one foot closer to the wetlands, unless you want a retaining wall. So you've got to go back to your engineer and to put on the map where you prefer it to go.

Mr. Rydzy said, This map shows the retaining wall, and after the retaining wall is the foundation.

Chair Vitali said, Does the engineer have that map?

Mr. Rydzy said, He does.

Chair Vitali said, On the map he has got to show the retaining wall.

Ms. O'Hare asked, Could I look at the map and pass it around? I don't know how many trees were going to be taken down.

Mr. Rydzy said, Zero. Then he showed his map to the Commissioners.

Chair Vitali said, Why does your retaining wall have that dogleg or bend? Is that all you need?

Mr. Rydzy said, I don't know. It took two years to put that in.

Chair Vitali said, If you've got a freestanding wall, what's going to hold up the corners of the garage?

Mr. Rydzy said, The foundation will be up to the height of the retaining wall. The two points on there are highlighted in yellow. And two other things that Ms. O'Hare brought up Monday, those are on the drawing.

Ms. O'Hare asked, What are the two items?

Mr. Rydzy said, With the existing pavement, it says, "All paving will be done."

Ms. O'Hare asked, Do you want to pave in front of the garage?

Mr. Rydzy said, In the new drawing, if you ask me to.

Chair Vitali said, I don't know the past solution. We could act on this plan or we could schedule a site investigation there. I don't know what the issue is. If he's going to operate on this plan, he's not going to take any trees.

Ms. O'Hare said, I haven't seen the new drawing he presented. You decide.

Mr. Rydzy said, It's on the plan at the table. Here's the existing driveway coming out of my house. This is the new layout. I wasn't aware on the maps where he shows paving, and I boxed it in with the dotted line—this 12 feet.

Mr. Necio said, So your retaining wall is here?

Mr. Rydzy said, Yes.

Mr. Necio said, And the drop-off?

Mr. Rydzy said, It drops off 30 feet at this corner.

Chair Vitali asked, What's the elevation?

Mr. Rydzy said, This is about 30 feet here down to the water.

Chair Vitali said, So there is about 4 feet or 6 feet of concrete exposed.

Mr. Rydzy said, That's right. We're not landlocked. But the Zoning Board of Appeals drew the diagonal where we could put the building. It's here, where there are no trees. This was all cleared out. Trees were in the water and fell down.

Chair Vitali said, I'd ask to have the slab into the wall. So, Erin, there's two sites where it's going to be paved?

Ms. O'Hare said, He's keeping the retaining wall. On page 4 are my three Conditions of Approval. I discussed it with him not to have the retaining wall on the back. On page 4 there's something on the Homeowners Association property where his deck is down on the H.O.A. open space. My Conditions of Approval: 1) To extend the swale in back because the roof water is going to erode too much soil out on the top of this slope. So I suggested doing a stone swale a bit further down to protect the slope. 2) To use a silt fence, but to use a silt coir log full of mulch, which would do less damage to the slope.

MS. PHILLIPS: **MOTION THAT APPLICATION #A22-8.1 – 158 MANSION ROAD – WAYNE & PAULETTE RYDZY – (DETACHED GARAGE & RETAINING WALL) BE DECLARED NOT A SIGNIFICANT IMPACT ACTIVITY.**

MR. NECIO: **SECOND.**

VOTE: **MR. CARUSO - YES; MR. NECIO – YES; MS. PHILLIPS – YES; MR. KERN – YES; CHAIR VITALI – YES.**

MS. PHILLIPS: **MOTION THAT APPLICATION #A22-8.1 / 158 MANSION ROAD – WAYNE & PAULETTE RYDZY – (DETACHED GARAGE & RETAINING WALL) BE APPROVED WITH THE TWO CONDITIONS LISTED IN THE ENVIRONMENTAL PLANNER'S REPORT OF SEPTEMBER 12, 2022, ON PAGE 3.**

MR. NECIO: **SECOND.**

VOTE: **MR. CARUSO – YES; MR. NECIO – YES; MS. PHILLIPS – YES; MR. KERN – YES; CHAIR VITALI – YES.**

2. #A22-8.2 / 1730 Tuttle Avenue – James Learned – (pond dredging & vegetation removal)

Ms. O'Hare said this Applicant is on vacation now, but he said I can represent him. You have the Environmental Planner's Report of September 28. This is a small pond at the edge of Tuttle Avenue. I was amazed at the environmental quality of this pond. It's very healthy, with about thirty turtles in there. There are no invasive species. He's not doing the whole pond. The pond is 170' x 60' x 10' deep. I saw it. But he wants to dredge an area approximately 30' x 20', down to 18 inches deep.

Chair Vitali asked, Do you have Conditions of Approval?

Ms. O'Hare read them aloud.

Commissioner Kern said, This drainage of a pond is to be approved by DEEP. I read they were against having ponds dredged.

Ms. O'Hare said she will research that. He may not need approval before DEEP because it doesn't apply to such a minor activity. There may be a size limit on that.

Chair Vitali said, So we can't vote on it.

Ms. O'Hare said, But tonight you also have an application for dredging a pond on the G.3. Application by PNA. Maybe they don't have a DEEP application there, either. For the Learned application, I think it could be called maintenance. This one is so small as to call it minimal. I can give him his money back.

Chair Vitali decided to move this Application #A22-8.2 to the November 2 agenda.

3. #A18-1.2 / 801 North Colony Road / Padens Brook – lamthewalrus, LLC – Spring 2022 River Restoration Corridor report, dated 8/29/22

No one appeared for this item.

Ms. O'Hare said, I did go out to the site, and I didn't like the way it looked. I haven't written my Environmental Planner's Report. It's very weedy. I'll do the report and decide how far they want to pursue this corridor restoration project. It's an impossible project to come out with success, compared to the way we imagined it. There's a big problem because the landscape worker took out all the saplings because he thought he was supposed to.

This item was moved to the November 2 agenda.

F. NEW BUSINESS – None.

G. RECEIPT OF NEW APPLICATIONS

- 1. #A22-9.1 / 844 North Colony Road – Honeywell International, Inc. – (demolition & remediation of small building 10 feet into Upland Review Area) – APPROVED ADMINISTRATIVELY, 9/26/22**
- 2. #A22-9.2 / 119 Quigley Road – Matthew Turner – (removal of understory vegetation in wetland & installation of fencing on side line). – Portion of application regarding fencing to within 10 feet of wetlands – APPROVED ADMINISTRATIVELY 9/28/22**

Ms. O'Hare described the portion of this Application not already given Administrative Approval. Ms. O'Hare had gone there with the Owner. She encouraged the Commissioners to go there and view the swampy wetland area. The Applicant is looking to take out the growth under the trees and all the bushes. It is a beautiful wetland with no invasives. The Application was received tonight for the November 2 agenda.

- 3. #A22-9.3 / 171 North Plains Industrial Road – Polish National Alliance, Lodge 513 – (pond improvements: vegetation removal & dredging)**

This Application was received for the November 2 agenda.

H. ELECTIONS – Were not held tonight.

I. REPORTS & COMMUNICATIONS

- 1. Discussion of proposal to adopt fines for violations – Not discussed.**
- 2. Farm Hill Road Detention Basin – status – Not discussed.**
- 3. Hazard Mitigation Plan Update – South Central Regional Council of Governments (SCRCOG) - Survey & Notice of virtual public meetings – NOTED**
- 4. CT Association of Conservation and Inland Wetlands Commissions (CACIWC) – Annual Conference, Sat., Oct. 29, 2022, Best Western Plus North Haven Hotel, 201 Washington Avenue, No. Haven, CT (Register online) – NOTED.**

J. VIOLATIONS

- 1. Notice of Violation Remains – 1245 Old Colony Road & Quinnipiac River – Jerzy Pytel – (unpermitted clearing & filling near river) – NOT DISCUSSED**
- 2. Notice of Violation Remains – 950 South Colony Road – 1NRSJ, LLC – (filling) – NOT DISCUSSED**
- 3. 350 & 346 Quinnipiac Street – Southern CT Pallets – (possible violation) – NOT DISCUSSED**
- 4. Notice of Violation – South Turnpike Road – South Turnpike II, LLC – (deposition of pallet mulch) – Discussed associated with next item.**
- 5. Notice of Violation – South Turnpike Road – Karl Kieslich, Little K’s Landscaping, LLC - (deposition of pallet mulch)**
The Commission ordered Karl Kieslich, Little K’s Landscaping, LLC, to remove all pallet mulch before November 2.
- 6. Notice of Violation – 67 Schoolhouse Road – Michelle Millican & Michael Gervace – (forest removal and filling of wetlands and Upland Review Area) -**
- 7. Notice of Violation – 67 Schoolhouse Road – Karl Kieslich, Little K’s Landscaping, LLC, contractor – (forest removal and filling of wetlands and Upland Review Area) -**
- 8. Notice of Violation – 69 Schoolhouse Road – Matthew Luis, owner – (forest removal and filling of wetlands and Upland Review Area) -**
- 9. 69 Schoolhouse Road – Karl Kieslich, Little K’s Landscaping, LLC, contractor–(deposition in Upland Review Area) -**

Adjacent property owners Michelle Millican and Michael Gervace and Matthew Luis and Gabrielle Verrelli appeared for Item 6 and Item 8 appeared and stated their case. Their Contractor was in the audience. Some discussion about the issues involved was held between the owners of the two properties and the Commissioners, but there was no resolution tonight. Mr. Luis stated that the contractor, Mr. Kieslich, was not involved on work on his land. So he should not have gotten served regarding this property. The parties for Items 6, 7, 8, 9 will appear again at the November 2 meeting. Chair Vitali directed Ms. O’Hare to get an opinion from the Law Department on the particulars of this case wherein the property owners had tried to obtain wetlands information from the Town before conducting the unpermitted activities. He told the owners they need a wetlands line by a Soils Scientist, and then on November 2 we will schedule a site walk. He told Mr. Kieslich he “was in limbo”.

K. ADJOURNMENT

MS. PHILLIPS: MOTION TO ADJOURN THE MEETING.

MR. NECIO: SECOND.

VOTE: UNANIMOUS VOICE VOTE TO ADJOURN.

The Meeting was adjourned at 9:50 p.m.

L. NEXT SCHEDULED REGULAR MEETING: Nov. 2, 2022

Respectfully submitted,

Kathleen L. Burns, Recording Secretary