

**Inland Wetlands and Watercourses Commission
Regular Meeting
Wednesday, November 2, 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 and Watercourses Commission to order on Wednesday, November 2, 2022, at 7:05 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, Alternates James Heilman and Aili McKeen, and Environmental Planner Erin O'Hare.

ABSENT: Alternate Commissioner Mrs. Caroline Raynis.

There were four persons in the audience, and eight more persons arrived during the Meeting.

A. PLEDGE OF ALLEGIANCE

The Pledge was recited.

B. ROLL CALL – As above.

C. CONSIDERATION OF MINUTES

1. Regular Meeting, Oct. 5, 2022

MS. PHILLIPS: **MOTION TO ACCEPT THE MINUTES OF THE REGULAR MEETING OF OCTOBER 5, 2022, AS SUBMITTED WITH THE CORRECTION MADE TO PAGE 5 AT ITEM E.1. TO SAY “APPEARING WAS MR. RYDZY.”**

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

D. OLD BUSINESS

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

Ms. O'Hare stated that the Applicant Mr. Learned could not be present tonight, and he had asked Ms. O'Hare to speak for him. He wants to dredge the lower end of his pond, an area 18 feet by 30 feet, to about 1½ feet deep. He is not creating any new territory.

Commissioner Kern suggested to look at pond dredging and the DEEP requirements.

Ms. O'Hare said, I contacted DEEP about your concern, and I have not heard back in three weeks. But I did go to a conference about eight years ago regarding contamination: if you're dredging out, you have to test the dredge materials. I don't know about how much or how deep you're going or who would test this. I'd urge this Commission to approve this 1730 Tuttle Avenue tonight because I don't think there's any contaminated soils. The pond is very healthy pond and no invasives.

Chair Vitali asked, Where are his spoils going to be dumped?

Ms. O'Hare said, He's going to take it up the driveway and to use it around planting beds.

Chair Vitali said, So there's no reason not to act on this tonight.

Chair Vitali asked for comments from other Commissioners, and there were none.

MS. PHILLIPS: **MOTION THAT APPLICATION #A22-8.2 / 1730 TUTTLE AVENUE – JAMES LEARNED – (POND DREDGING & VEGETATION REMOVAL) BE DEEMED NOT A SIGNIFICANT ACTIVITY.**

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

MS. PHILLIPS: **MOTION THAT APPLICATION #A22-8.2 / 1730 TUTTLE AVENUE – JAMES LEARNED – (POND DREDGING & VEGETATION REMOVAL) BE APPROVED WITH THE TWO CONDITIONS OF APPROVAL ON PAGE 2 OF THE ENVIRONMENTAL PLANNER'S REPORT OF SEPTEMBER 28, 2002.**

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

2. #A18-1.2 / 801 North Colony Road / Padens Brook – lamthewalrus, LLC – Spring 2022 River Restoration Corridor report

No one appeared regarding this permit-required report.

Ms. O'Hare said, This concerns the Padens Brook River Restoration Corridor proposed in April 2018 and tied to the Tractor Supply development then. It's a six-year program. The Ecologist, Sigrun Gadwa, has been before this Commission twice. I'll meet with her. The report went out in the September packet to you. I want to get this plan over by next year. It's not exactly the plan we approved. Last summer, the landscaper cut down some of the plants that were installed. But it's a good plan for that river. You can go out and look. It's not what the Commission approved, so we maybe have an opportunity here. When you read the report, you'd understand. I'll pass these photos out.

Chair Vitali said, What were we trying to accomplish? Stabilizing the banks of the brook; control the flow; and to get rid of the knotweed.

Ms. O'Hare said, We wanted to accomplish that. The botanist's intention was to get rid of invasives and make it a healthy ecosystem. They have set out to do that, but the Commission did not ask for that. The property owners retained them to do a six-year plan which you approved. So I want some direction. A lot of plants were lost due to the drought this year.

Chair Vitali said, My opinion was that plan was too aggressive six years ago and didn't make sense. I think we should have requested the bare minimum to hold the bank. It's five years later and they want their bond back. What should we have required: the elimination of the knotweed and the control of the bank? You're not going to see Tractor Supply with the new building in front.

Ms. O'Hare said, I want to talk to them: Are they done planting? Are they going to replant if plants die? And I want them to submit a management plan for the property owner for the future.

Chair Vitali said, Commissioners?

Commissioner McKeen said, I was impressed with their plan and what they've done.

Commissioner Kern said, We gave them five to six years and they have one year left. They should replace plants that died. I think it's in your hands: By next spring or summer, for you to tell them this is what they offered and what we wanted to see—unless they come back with an alternative plan. So you'll have to tell us what you want to see.

Chair Vitali said, It was knotweed five years ago. The Commissioners should go there and see what they have done.

Ms. O'Hare said, I will put it on the next agenda, and I'll meet with them.

3. #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 said, I am speaking for Matthew Turner because he is out of town. The Applicant originally applied with one plan. So we did look at the fencing, to be 15 feet away from the wetland line in the Upland Review, and that fencing on one side was administratively approved by Chair Vitali. Then when I met him out there, and he said he wants to remove the understory vegetation in the wetlands but to leave the trees. I stated I would not recommend that. A few weeks later, he said he wants to only take out the understory in the URA area on the left side of his property. I think in September you got a plan. He's not going to make a park now out of the wetland area. So I'm O.K. with Administrative Approval on this revised Application.

There were no comments from Commissioners Phillips and Heilman.

Commissioner Kern said, Does he want to take the wetland vegetation out?

Ms. O'Hare said, He did originally. He scrapped that because I would not support it. So now he's just going to remove the understory vegetation in the Upland Review Area to make a square back yard. There may be one tree in the URA. On the left side, from 30 feet long to 5 to 15 feet wide where it bows out, is where he wants to eliminate the bow, so he'll have a square back lawn up to the wetland line.

Commissioner McKeen said, So he'll be making that lawn. Is there to be fertilizer or any lawn chemical? I'm concerned he's going to treat for a lawn right up to the wetlands. The whole idea of Upland Review Area is as a buffer, and you'd let him take that away.

Chair Vitali said, Erin, the memo from 10/28 [reference is to the Environmental Planner's Report] says regarding Application #22-9.2: Are we installing another fence on this property?

Ms. O'Hare said, No, there's to be only one fence, which got installed after the prior administrative approval in October. He had a two-part application. It was for the fence on the left and then the cleaning out of the understory on the wetland. He got his fence on the last part, and he then said "No" to the cleaning of the understory. So he's just going to do elimination of vegetation in front of the wetland where it bows out in this portion.

Chair Vitali asked the Commissioners for their opinions.

Commissioner Phillips was in favor of Administrative Approval. Commissioners Necio, Caruso, Kern,

and Chair Vitali agreed as well.

Chair Vitali said, It's O.K. to grant Administrative Approval.

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

Appearing were Environmental Analyst Mr. Roman Mrozinski, Polish National Alliance President Mr. Ed Zielinski, and another gentleman.

Mr. Mrozinski said, This is the concept we requested, as opposed to the wet dredging that was proposed by another company. Tonight we're trying to get approval of Phase I, which is proposed by the Pond Committee. We would like to do preliminary Phase I-A, which is clearing of the south-eastern side of the original pond to start the project. The original wetlands flagging would remain, and the confines of the pond would be the same. We're looking to bring back the functionality and the quality of the water and to intercept sediments that come down from Padens Brook. It gets into the floodplain and overtops and brings sediment load to the pond. Over several years, putrifaction of this pond was significant. It has gone from 1.2 acres in size to about 0.4 acres of standing open water, in depth from 6 inches to possibly 3 feet. So we propose to dredge it, taking out about 2,000 cubic yards of material, store it on site, dewater it, and utilize the fill on site, and basically bring this up to the level of a primary treatment within the CT DEEP Stormwater Manual, which was in the earlier document. Then we will stage and profile the bottom. It will be more functional and offer a better environment ecologically and a habitat for animals.

Chair Vitali asked, Where did you say the source of the water was from?

Mr. Mrozinski said, The entire area all the way down to the old Grant's/Sam's is an outwash plain, glacial deposition. It's very droughty, a lot of sand.

Chair Vitali said, That doesn't feed this end of that sand pit? Is it spring-fed or groundwater?

Mr. Mrozinski said, No, but the entire area is receiving stream-fed water, both spring-fed and groundwater.

Chair Vital asked, On the map here tonight, you're looking for just the yellow strip?

Mr. Mrozinski said, Yes. It's selective cutting—not grubbing and not exposing soils. It's just taking vegetative cover down so we can better evaluate, to have contractors come in and tell us what they're capable of doing. We're looking to save specific trees along this edge; and the dredging machines have to swing material out of the pond, to get to the depth profile. We have to do Dewatering Measure No. 1 and No. 2 per the CT Guidelines for E&S Control. There's not a lot of water, but there is groundwater in that area, which we hope to be able to reclaim and have the water quality increase, and also the capacity for flooding and for storage.

Chair Vitali asked, Are you going to dewater the ground?

Mr. Mrozinski, No. We're going to dry-dredge. It was in my first report.

Ms. O'Hare said, I met with the Applicant last week and took pictures and did my report. Over time, there were permits for the PNA. It's remarkable how it has silted in. Roman's Concept Plan went out in your September packet. It's very ambitious. Engineering and permitting will take time. But now they want to get started. They came back with this Phase 1A that they would like you to approve

tonight--so they can clear the vegetation by the building-side of the pond and make these two dewatering areas that will be cleared now and later made into a sump. It's a thicket now, and they'll be able to see the area better and clear to the wetland line and have prospective contractors come and give input so they can design the next phase. There will be another Application later.

Commissioner Kern asked, Erin, do they need a DEEP permit?

Ms. O'Hare said, The Town Engineer told me that the Applicant has to find out if they need state or federal permits—a diversion permit, etc.

Commissioner Kern said, I have heard that DEEP doesn't like this type of pond to exist anymore. Whether spring-fed or ground-fed, do they need a DEEP permit?

Ms. O'Hare said, I don't know. Simply, this is not just dredging a pond; it's not like a farm pond or an isolated pond. This is a flow-through pond, part of a large floodplain—it's a dynamic system. I know water will flow through this. I don't see algae being such an issue—but sediments coming down from up above.

Commissioner Kern said, I'm thinking about contaminants, if they bring soil out and let it sit there.

Ms. O'Hare said, I don't know if there's a State testing requirement of materials for contamination, but I'm sure they'd be willing to test that. It will be two applications. But tonight they'd be happy to just get this cleared and to design the next phase.

Commissioner Kern said, I'd feel comfortable if you got something from DEEP to say "They authorize you to do this." I think the State is trying to discontinue these—for no more dams and no more stagnant water. If it's spring-fed in the summer, what kept the low water from being degraded then? It's an acre and a half, two acres?

Mr. Mrozinski said, The pond is receiving flows: past Community Pool, several trucking and industrial areas, plus lawns, and runoff from roads and industrial areas—most of which have volatized petroleum products, etc. I used to work for DEEP until 2019. What they had been looking for is transport/resuspension of heavy metals—zinc, lead, etc.—which are bonded to soils. Hopefully, they have not transported (to this pond). I don't know about smaller ponds since I left the agency. At Community Lake, they could not keep the heavy metals sequestered from the silver industry being there.

Commissioner Kern said, In 2020 we had an application for a spring-fed farm pond, and they told them they had to fill it in and it would no longer exist.

Mr. Mrozinski said, I can research that for the PNA. Farm ponds typically have herbicides, pesticides, which sometimes bond and strip the soil. We can have it tested by the labs in New Haven.

Commissioner Kern said, I would feel better if DEEP is involved. I don't want to see spoils, contaminated soils head to the Quinnipiac. The material you're going to dredge out, that's considered spoils. How do you know there's not stuff laying on the bed of this area? It all comes down from the north.

Mr. Mrozinski said, Do you want me to have a bathymetric assessment of material in the pond? You've heard how the DEEP responds; I had that problem, representing the 43 townships that I did. But I will certainly pursue it to see if they want to have any input or guidance. The pond dredging here is going to be sequestered on site.

Chair Vitali said, So much of this Application is associated with DEEP rules. We have no issues with the pond. There has to be a manual on pond dredging.

Mr. Mrozinski said, The dam that was there was registered by DEEP. It's no longer functional. There are remnants of the dam and concrete floor. There are no restrictions other than the conveyance of the channel. DEEP has given up on the dam as a result of Army Corps, DEEP, and RCS.

Commissioner Kern said, DEEP wants to see dams discontinued. At Community Lake, we now have two swamp ponds because they said we couldn't put the dam back in. There's no dam there.

Chair Vitali said, As discussed tonight, it's primarily the removal of selected vegetation around the perimeter of the pond. And the dewatering areas?

Mr. Mrozinski, No, the dewatering is per the Connecticut 2002 Erosion Control Guidelines. Those areas are staging areas to receive the dredging materials (organics and subaqueous soils) to dewater and allow water to go back into the pond. It allows us to take a look to see if they are sellable or, if not, they could be taken off site. If they have contamination, that has to be assessed. But the DWM1 area in the north of the pond is open already. DWM2 area has 8 to 12 trees.

Chair Vitali said, That's what you want to remove. So they want to remove selected growth.

Mr. Mrozinski said, Yes.

Commissioner Kern asked, On DWM1, you have a 1,000-gallon grease trap—is it septic or grease?

Mr. Mrozinski said, That is off the northwest corner of the building, a grease trap 75 to 100 feet away from the dewatering area.

Mr. Ed Zielinski, President of Polish National Association, said, In order to comply for parking, we eliminated our septic system and put in sewer and put in a grease trap for the new kitchen downstairs. It's been inspected by the Health Department.

Mr. Mrozinski said, I have the original drawing. The pump chamber invert is at 46 (field verified), and the pump chamber is at 50.5. It's a 1,000-gallon grease trap by United Concrete.

Commissioner Kern asked, Where does the sewer line come out of your hall?

Mr. Mrozinski said, The sewer line comes out to the east at the northwest corner and goes out to—

Mr. Zielinski said, North Plains Highway.

Commissioner Kern said, O.K.

Commissioner Heilman wanted to know about the general project. Leaving the pond are two culverts? How does the pond drain, and in what direction?

Mr. Mrozinski said, From the south end of the structure, a six-foot-wide conveyance goes underneath North Plains Highway. It is a five-foot-diameter oval culvert.

Commissioner Heilman said, So the pond is set up very well to flush, as to what Nick brought up about algae formations. Also, in the aerial picture there are times when sediments come in. A lot of

it, by color, looks very recent, as a lot of fill has come into this pond as Erin said. There are times of significant flows coming through, a lot of buildup in a short period of time. So in the pond area where you'll be dredging is where the velocity has stopped. Water flushes in when it rains. The color pictures show the deposition is fresh from the corner in the east. Also, what depth would you be looking for in the pond, for aquatic advantages?

Mr. Mrozinski said, I put the dry dredging in stages, going from the southernmost end of the pond (the only open water end, 6 to 3 feet presently). Right now, the outlet is at 43.8' elevation, due to the drought—significantly different from what was here. There's significant vegetation over the years, and the shallow water has higher temperature and loss of dissolved oxygen for days fish, leeches, snakes. From the north, we intend to preserve the uppermost reaches of the pond that has a delta with alder, willow, etc. We'll restore the pond back to 0.8 or 0.9 acre of open water, an increase to 3 to 5 feet in depth. Then we'll do a pond profile for three months' flow, which will go down another 5 feet from the proposed 3-foot that we've found. Low flow was in July, relatively clear, and we found brown algae with reeds plus significant trackings of muskrat, etc. In spring, there should be amphibians and turtles. PNA is being diligent to resurrect this pond. The community will benefit. The intent is to reclaim what they had and to get functionality back. I'd invite you to take a look at this. I think this can benefit PNA and the Town.

Commissioner Heilman said, This is good for the environment.

Chair Vitali said, This is not part of the Padens Brook system, so what is feeding this? And what did you do with storm drainage in the parking lot? Is it into catch basins with direct recharge, and no oil/water separator? I'm not against flow-through, but I don't think it is from the old K-Mart or Sam's.

Mr. Mrozinski said, Looking at the topographic maps, it's a substantial area. Padens Brook comes across the northern sector of PNA land, and it overtops in significant storms into the swamplands braided streams to the pond. It feeds the areas where Mr. Heilman is seeing fresh deposition, seasonally. We're trying to intercept and maintain it.

Chair Vitali said, I don't think it's all of North Plains that feeds it. So I want to understand where the flows to the inlet of this pond are coming from. So I'm looking for a Motion regarding Significant Activity to the yellow area on this map for cutting of selected vegetation to allow assessment of the project.

Commissioner Kern said, This Application is not for dredging. I will just be vegetation removal.

Ms. O'Hare said, Yes, on the east side of the pond.

MS. PHILLIPS: **MOTION THAT APPLICATION #A22-9.3 / 171 NORTH PLAINS INDUSTRIAL ROAD – POLISH NATIONAL ALLIANCE, LODGE 513 – (POND IMPROVEMENTS: PHASE 1A, VEGETATION REMOVAL ON THE EAST SIDE) BE DEEMED NOT A SIGNIFICANT ACTIVITY.**

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

MS. PHILLIPS: **MOTION THAT APPLICATION #A22-9.3 / 171 NORTH PLAINS INDUSTRIAL ROAD – POLISH NATIONAL ALLIANCE, LODGE 513 – (POND IMPROVEMENTS: PHASE 1A, VEGETATION REMOVAL ON THE EAST SIDE), PER DRAWING SUBMITTED OCTOBER 28, 2022, BE APPROVED WITH THE**

CONDITIONS OF APPROVAL IN THE OCTOBER 28, 2022, ENVIRONMENTAL PLANNER'S REPORT DATED OCTOBER 28, 2022.

MR. NECIO:

SECOND.

VOTE:

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

E. NEW BUSINESS

There was no New Business.

F. RECEIPT OF NEW APPLICATIONS

1. **#A22-10.2 / 1 North Elm Street – Choate Rosemary Hall – (building construction)**
Chair Vitali stated this Application is being received for the December 7 agenda.

G. ELECTIONS – Were not held tonight.

H. REPORTS & COMMUNICATIONS

These items were not taken up.

1. **Discussion of proposal to adopt fines for violations**
2. **Farm Hill Road Detention Basin – status**
3. **Notification from City of Meriden to Wallingford Town Clerk re: 850 Murdock Avenue aka 1107 Northrup Road – “significant modification to approved plan” – (Note: IWWC approved IWWC #A22-5.3 on 6/15/22)**
4. **Wetland file information & DEEP training & conferences – staff**

I. VIOLATIONS

1. **Notice of Violation Remains – 1245 Old Colony Road & Quinnipiac River- Jerzy Pytel – (unpermitted clearing & filling near river)**
This Item 1 was not taken up and will remain on the agenda for December.
2. **Notice of Violation Remains – 950 South Colony Road – 1NRSJ, LLC – (filling)**
This Item 2 was not taken up and will remain on the agenda.
3. **340 & 346 Quinnipiac Street – Southern CT Pallets – (possible violation)**
This Item 3 was not taken up and will remain on the agenda.
4. **Notice of Violation – South Turnpike Road – South Turnpike II. LLC – (deposition of pallet mulch) – staff update**
5. **Notice of Violation – South Turnpike Road – Karl Kieslich, Little K’s Landscaping, LLC - (deposition of pallet mulch)**
Appearing for Items 4. and 5. was Mr. Karl Kieslich.

Chair Vitali asked Mr. Kieslich to speak.

Mr. Kieslich said, The owner of the property had no idea that you wanted anything removed. He told me to move 6” to 8 “ of the depth because it was a little high. Yesterday I was contacted by his property manager Tom because he spoke with Erin O’Hare. He told me today to bring it back 10 feet. We started that from 3:30 to 5:30 today, to bring an extra 10 feet out of the buffer zone. We originally applied the wood chips to make it more presentable.

Ms. O’Hare said, The Owner was confused why it was put there in the first place, if it wasn’t appropriate. The contractor should have checked if it was O.K. to dump it there. Now the owner understands, and he wants all the material out of the wetlands jurisdictional area. I drew a map for them, and Tom put the red flags in. Karl called me around 1:00 p.m. today. This is pallet mulch. I don’t

want any dirt taken out. So they started. But Planning and Zoning will follow up on their own violation.

Chair Vitali asked Ms. O'Hare to keep these Items #4 and #5 on the agenda for December.

MS. PHILLIPS: **MOTION THAT THE NOTICES OF VIOLATION ON SOUTH TURNPIKE ROAD FOR SOUTH TURNPIKE II, LLC, AND KARL KIESLICH, LITTLE K'S LANDSCAPING, LLC, REMAIN.**

MR. NECIO: **SECOND.**

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

9. 69 Schoolhouse Road – Karl Kieslich, Little K's Landscaping, LLC, contractor – (deposition in Upland Review Area)

Appearing was Mr. Karl Kieslich.

Chair Vitali asked Mr. Kieslich if he had deposited the brick on the property of this Item 9, 69 Schoolhouse Road.

Mr. Kieslich said that that brick came from a different contractor.

6. Notice of Violation – 67 Schoolhouse Road – Michelle Millican & Michael Gerace – (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)

Appearing were Mrs. Michele Gerace and Mr. Michael Gerace.

8. Notice of Violation – 69 Schoolhouse Road – Matthew Luis – (forest removal and filling of wetlands and Upland Review Area)

Appearing were Mr. Matthew Luis and Ms. Gabrielle Verrelli.

Mr. Luis passed out copies of a letter received from Ms. Sigrun Gadwa, M.S., of Carya Ecological Services, LLC, dated November 2, 2022, to Ms. O'Hare and the Commissioners.

Chair Vitali considered Items #6, #7, and #8 together. He said, We've received this letter tonight. I think Erin has to go out and report on whether you can or cannot keep the product there.

Mr. Gerace said, Ms. Gadwa did not flag the wetlands, but she did recommend that we pull back the north side that we have by 20 feet and, toward the back of the house, pull back 20 feet as mitigation, rather than pulling up soil and possibly doing harm to the environment.

Chair Vitali said, First, you have to determine what was wetlands that was filled and then mitigation.

Ms. O'Hare asked, Did she tell you where she thought the wetlands ended behind your house?

Mr. Luis said, She didn't exactly tell us, but she did show us the surrounding areas.

Mrs. Gerace said, She is planning on restoring 6,000 square feet of the wetland and with a proposal for all the native vegetation to grow.

Chair Vitali said, Based on the subdivision map last time, it looked like the builder went past his

approved line from the State of Connecticut. So you had 20 or 40 feet of back yard that wasn't supposed to be there. Her letter tonight says to continue that. It's not a site plan of your property. Erin, you may want to have Sigrun out there with you.

Ms. O'Hare said, I can give you a base map with nothing on it, and she can draw in where she thinks the wetland line is. I can do that next week.

Chair Vitali asked the parties to work additionally with Ms. Gadwa, Certified Soils Scientist.

Mr. Gerace said, We need to preserve the area.

Mr. Luis said, We received this letter today. The contractor hasn't come out to see us.

Mrs. Gerace asked, What about the legal issue, where we were misinformed from the Town department?

Chair Vitali said, You should have been talking to the Wetlands office. Your deed should say it.

Commissioner McKeen said, Attorney Small's memorandum on this violation said, "There is a very substantial burden of proof that a person misled them as a Town official."

Mr. Luis said, At the last meeting, I indicated that Ms. O'Hare had said, "There's no wetland violations."

Commissioner Caruso said, The system has failed these people. Were you even aware that there were wetlands when you bought it? The policy of advising people that there's no wetland violations cannot stand. There has to be an answer and to come in with your map and let's talk about it. We have to be flexible with them.

Commissioner Necio read from Attorney Small's memorandum, "When considering the appropriate remediation order, the Commission may in its discretion take into account the evidence that the owners believed that they did not require a permit."

Commissioner McKeen said, Who is the contractor who dropped the brick?

Mrs. Gerace said, We're not sure. We signed a contract for fill, but we didn't know who was bringing it.

Commissioner McKeen said, Maybe we should ask Mr. K. if he arranged to bring the fill. Can you produce that contract, please?

Mrs. Gerace handed her a copy of the contract to review.

Mr. Karl Kieslich said, I brought in dirt fill.

Chair Vitali asked, Bricks?

Mr. Kieslich said, Bricks came from another contractor. It was someone that needed dumping. It's good fill, it wasn't contaminated.

Chair Vitali said, You didn't think it was wetland out there?

Mr. Kieslich said, Not at all. I also called in and asked if this was wetlands. I didn't think that was wetlands at all.

Chair Vitali said, You should have called and asked for the Wetlands Department. So you're working with Sigrun.

Ms. O'Hare said, This Commission was created in 1988, so we have files from then forward. Your subdivision was created in 1978, and that portion we don't have good records on. I pull up the old state files when DEP was in charge of Wetlands and see what we can do with that. If we have no records in the office, people have to hire someone to tell them. In the back, it was obvious it was swamp. When I went out with Jim McManus (Soils Scientist), I saw it. I got the original subdivision map from 1978 from the Planning and Zoning files.

Chair Vitali said, So the original contractor filled to the back of the house.

Ms. O'Hare said, Wetlands are determined by soil type. The investigator has to determine that with an auger.

Commissioner Heilman said, So Wetlands didn't have the information, but the other office did.

Mrs. Gerace said, People need to be told when they call to get the advice from the right office and that they need a soils scientist.

Chair Vitali said, So they'll have to come back.

MS. PHILLIPS: **MOTION THAT THE NOTICES OF VIOLATION ON VIOLATION ITEMS #6 AND #7 AT 67 SCHOOLHOUSE ROAD, AND VIOLATION ITEM #8, 69 SCHOOLHOUSE ROAD, REMAIN IN EFFECT.**

MR. NECIO: **SECOND.**

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

J. ADJOURNMENT

MS. PHILLIPS: **MOTION TO ADJOURN.**

MR. NECIO: **SECOND.**

VOTE: **THIS MOTION TO ADJOURN WAS APPROVED UNANIMOUSLY IN A VOICE VOTE.**

The Meeting was adjourned at 8:46 p.m.

K. NEXT SCHEDULED REGULAR MEETING: Dec. 7, 2022

Respectfully submitted,

Kathleen L. Burns, Recording Secretary