

MINUTES

GREENWICH INLAND WETLANDS AND WATERCOURSES AGENCY

November 26, 2018

Members present: Chairman Brian Harris, Vice Chairman Elliot Benton, Secretary, Stephan Skoufalos, Jo Rogers, Jay Schondorf, Norma Kerlin, Bill Galvin

Alternates present: Alan Rossi, Peter Linderoth and Klaus Jander

Staff present: Patricia Sesto, Director, Robert Clausi, Senior Wetlands Analyst (8:08), and Doreen Carroll-Andrews, Compliance Officer

Others present: Dinyar Wadia, Wadia Associates; Bruce Cohen, Fogarty, Cohen, Selby & Nemiroff, LLL; Matt Popp, Environmental Land Solutions, LLC; Larry Liebman, S.E. Minor & Co., Inc.; Rob Frangione, Frangione Engineering, LLC; Tony D'Andrea, Rocco V. D'Andrea, Inc.; Tom Heagney, Heagney, Lennon, & Slane, LLC; Steve Wickstrom and Mike Tinder, Burning Tree Country Club,; Brett Holsworth, Redniss & Mead, Inc.; Evelyn Peterson; Tom Lotto and Dan Iannicelli, Kleinfelder; Brenden Fimiam, Aquarion Water Company of Connecticut; Peter Berg; Jim Donovan; Sal Longo, Tata & Howard; Frank Parker; Steven Bishop; Bill Kenny, William Kenny Associates, LLC; Chris Bristol, Gilbride, Tusa, Last & Spellane, LLC; Karl Friberg, Lyn Peterson, Mark Wenitsky, and James Fulton and James Riley, Whitman Breed

1. Call to Order

Chairman Harris called the meeting to order at 7:05 p.m.

2. Seating of Alternates

As noted below.

3. Approval of draft minutes of October 22, 2018

Stephan Skoufalos made a motion to approve the minutes of October 22, 2018, seconded by Jo Rogers, and carried 7-0-0.

4. Director’s Report

a. Monthly Summary

No report

5. Other Business

- a. Patricia Sesto requested the agency consider updating the bond schedule. The previous guidelines were prepared in 1997 and no longer reflect the needs of the agency. If the basic goal of the bond is to motivate compliance, the current guidelines are too high. Mrs. Sesto presented a new set of guidelines, which retain discretion of the agency and staff to digress as situations warrant. This proposal does not alter the practice of requiring a secondary bond for planting plans.

Discussion ensued.

Bill Galvin made a motion to adopt the revised performance bond guidelines as proposed, seconded by Jo Rogers, and approved 7-0-0.

- b. Peter Linderoth reported on the annual CACIWC meeting. He said it was informative and a good opportunity for networking. Alan Rossi concurred and recommended the agency invite atty. Janet Brookes or Mark Branse to present to the agency on best legal practices and recent case law. In speaking with Ms. Brookes, she stated she would welcome the opportunity. Town Counsel Wetmore would be invited as well. It was the consensus of the agency to move forward with this recommendation.

I. Consent Approvals

1. **#2018-137 – 26 Normandy Lane – Redniss & Mead, Inc. for Paul and Erin Teske for regrading and soil improvement within wetlands. Tax #05-2757/s (first 65 days 12/26/18)**
2. **#2018-144 – 469 & 471 North Street – Gilbride, Tusa, Last & Spellane LLC for The Saint Michael's Roman Catholic Corp. for re-surfacing and reconfiguring drives, parking lots, and walkways, drainage, landscaping, and additions to the church and rectory 40' from wetlands. Tax #11-4037/s & #11-4012/s (first 65 days 12/26/18)**

Elliot Benton made a motion to approve applications #2018-137 and #2018-144 as consent approvals, seconded by Bill Galvin, and carried 7-0-0.

II. Pending Application

1. **#2018-112 – 0 Hendrie Avenue – Redniss & Mead, Inc. for construction of a single family residence and associated site work 2’ from wetlands. Tax #05-2916 (first 65 days 10/31/18)**

Chairman Brian Harris and Norma Kerlin recused themselves. Peter Linderoth and Klaus Jander were seated.

Mrs. Sesto reviewed the outstanding issues and their resolution. The rain garden function is now proposed to be handled via infiltrators. This will provide a better balance of outdoor

space. The driveway has been moved ten feet closer to the wetland to achieve the necessary sight lines.

Brett Holsworth of Redniss & Mead, Inc. appeared before the agency. He reviewed the lot and proposal. The site has 1/3 acres of wetlands, the house will be 37 feet from the wetland, and the drainage outflow is proposed to be five feet from the wetland. DPW has signed off on the rain garden change. With regards to a letter submitted by a neighbor, Mr. Feurer, the storm drainage plan will attenuate the 1-25-yr storm events. Accordingly, no increase in flooding will occur.

Members questioned the impetus for changing the rain garden to infiltrators as it relates to DPW. Mr. Holsworth stated DPW suggested the change, acknowledging the proposal exceeds the minimum LID requirements and the yard might be better utilized by the residents with infiltrators rather than a rain garden. The change does not impact the volume of water treated.

Elliot Benton made a motion to approve action of IWWA 2018-112 with the General Conditions and Special Conditions proposed by staff, seconded by Jo Rogers, and carried, 7-0-0.

2. #2018-128 – 42 Dublin Hill Drive – Rocco V. D'Andrea, Inc. for SBP Dublin Hill LLC for a five lot subdivision. Tax #08-2590 (first 65 days 11/28/18)

Chairman Harris and Norma Kerlin were reseated.

Mrs. Sesto described the 19-acre, five-lot subdivision. The outstanding issues for the subdivision consisted of minimizing the footprint of grading and better compensating for tree loss. In response, the grading along the road and driveway to lot five has been tightened. Understory trees are proposed to replace the cut trees on a 1:1 ratio.

Anthony D'Andrea, of Rocco V. D'Andrea, Inc., appeared before the agency on behalf of the applicant. DPW has approved the drainage plan, which drains east, away from the wetlands. Ten to 15 trees need to be cut for the driveway to lot 5 and a planting plan by William Kenny Associates, LLC has been submitted to compensate. The trees are not adjacent to the impacted area, rather they are located within the abutting open space in an area currently vegetated by lawn. A boulder demarcation feature is planned to define the mowed shoulder from the naturally vegetated open space.

In the northwest section of lot 1, the previously proposed galleries have been replaced with a rain garden. To limit encroachment into regulated areas, the old driveway is being used.

William Kenny of William Kenny Associates, LLC, addressed the agency. He stated long-term maintenance of open space to control invasive species is planned. The lawn will be seeded with a meadow mix and native flowering trees added. The rain gardens will likewise be seeded with a meadow mix.

Mrs. Sesto questioned the choice to replace canopy species with understory species. The meadow is not likely to be properly maintained in the shared open space, to the advantage of invasive species. She recommended six canopy trees be added to the plan in this area.

Jo Rogers made a motion to approve action of IWWA 2018-128 with the General Conditions and Special Conditions proposed by staff, with the additional Special Condition that the planting plan be revised to include six native shade trees, seconded by Elliot Benton, and carried, 7-0-0.

3. #2018-130 – 120 Perkins Road – Rocco V. D’Andrea, Inc. for Burning Tree Country Club, Inc. to dredge ponds and stabilize stream banks. Tax #11-2504 (first 65 days 11/28/18)

Norma Kerlin, Jo Rogers, Jay Schondorf and Alan Rossi were identified as having visited this site, accompanied by Course Superintendent Steve Wickstrom.

Mrs. Sesto reviewed the contents of Mr. Clausi’s staff report and her observations from the site visit. A document, whose author was not identified, was submitted to provide additional details. The spoils areas were identified, as was the location of the Shore Sox. However, there are still many questions. The plan to excavate the stream is still poorly considered. The stream is 10-20 feet wide in some areas and the plan is to excavate that entire width, with no consideration of low flow channels, floodways, or floodplains. The plan makes no accommodations for dewatering the in-stream work area. The placement of the Shore Sox has been loosely articulated, with no consideration of a healthy, sustainable fluvial morphology. The upstream side of the culvert at fairway #4 appears to be undersized and the upstream banks are eroding. Mrs. Sesto supports the use of sediment forebays, but this erosion issue needs to be considered. The pond dredging extends into some lobe areas that are well vegetated and should be left as is to filter inflow from the surrounding golf course. The use of a sediment curtain across the stream is inappropriate. And the proposal to deposit spoils in a maple grove should be eliminated as the fill will kill the trees.

Tony D’Andrea, P.E., Rocco V. D’Andrea, inc. addressed the agency on behalf of the applicant. The work proposed is not to satisfy an aesthetic goal, rather to address flooding problems. The stream channel has deteriorated and needs correction. The nature of the soils on-site, namely silt and sand has accumulated in this nearly flat waterway. Dewatering the work area is feasible to control sediment.

The club has no desire to re-engineer the channel. They only want to correct the erosion problem. They intend to shore up the stream banks as they exist with no substantive reconfiguration. The problem stems from past practices to have lawn up to the water’s edge. The fine silty soil wasn’t held in place. The Shore Sox will stabilize the banks and protect them during low flow. There is no intent to change the current cross-channel dimensions.

The ponds need to be dredged due to sediment loads originating from the Merritt Parkway. The depth will foster better water quality and an emergent shelf is planned within the ponds. Mr. D’Andrea agreed the sediment basin proposal needs further evaluation. The ponded areas by fairways 4 and 5 will use the Sox to define the new channel, which will vary in depth and will be effectively flat.

Mrs. Sesto responded that Mr. D’Andrea has expressed many intentions for the project, much of which is not documented. The record of what is going to be done is weak and not something the staff could reasonable enforce because it is unclear what to expect.

Mr. D’Andrea suggested the project be split in two, the ponds and the stream. Was there a way the agency could move on one and continue to consider the other? Mrs. Sesto replied the applicant would have to withdraw the elements of this application that will take more time and then resubmit those pieces in a new application.

Stephan Skoufalos asked if others have used the Shore Sox. Steve Wickstrom, course superintendent, stated Envirodredge has had a patent on them for 3-5 years and he is not aware of any used in the Northeast.

Stephan Skoufalos made a motion to delay action on IWWA 2018-130, seconded by Elliot Benton, and carried, 7-0-0.

III. New Applications For Review

- 1. #2018-111 – 16 Lakeview Drive – Edison Carabali for Mariano Carlos Lozao to maintain a stone path and floating dock within wetlands. Tax #12-2054 (second 65 days 1/4/19)**

At the request of the applicant consideration of this application was delayed to the December 17th IWWA meeting.

- 2. #2018-134 – 18 Grahampton Lane – Frangione Engineering, LLC for Greenhill Associates, LLC to remedy clearing, grading, and construction of a stonewall in and adjacent to wetlands. Tax #11-1535 (first 65 days 12/26/18)**

Doreen Carroll-Andrews reviewed her staff report and explained the violation that was issued for this application.

Norma Kerlin, Jo Rogers, Jay Schondorf and Alan Rossi visited this site.

The cease and correct order #2018-011 stated that IWWA staff received a complaint of tree removal due to construction of a stone wall at 18 Grahampton Lane. There was an existing low wall along the western property boundary and extending approximately 150 feet from the corner along the southern property boundary. This wall was rebuilt and extended 2-3 feet into the wetland. Trees in this area are no longer there; the owner stated they came down during a storm event. The wall is now mortared and the engineer indicated water flows away from this area, so no weep holes are needed. New drainage calculations are needed to ensure the drainage plan is still in compliance given the added impervious surface.

The planting plan associated with the previous permit is still required and missing trees will be replaced on a 1:1 basis. Wrongfully placed fill behind the shed will be removed.

On the east side of the property, trees have been cut beyond the permitted limit of disturbance. Ten trees, six inches dbh or greater will be replaced in the affected area.

Elliot Benton made a motion to issue an order to correct as proposed by staff for IWWA 2018-134, seconded by Stephan Skoufalos, and carried, 7-0-0.

3. #2018-135 – 41 Ettl Lane – Karl Friberg and Evelyn Peterson for after-the-fact application for a footbridge, and restoration of a wetland. Tax #09-2562 (first 65 days 12/26/18)

Doreen Carroll-Andrews reviewed her staff report. She also explained the violation that was issued for this application.

The activities consisted of limited clearing in a 40 ft. X 23 ft. area, hand construction of a small dam, and installation of a footbridge. The dam has been removed and a planting plan has been proposed where the clearing of Japanese knotweed took place. The footbridge does not have footings and is not in a flood zone. There is no hazard risk in allowing the bridge to stay. Ms. Carroll-Andrews recommended an order be issued.

Property owner Evelyn Peterson, appeared before the agency. She reiterated some points made by Ms. Carroll-Andrews. She and her husband will be doing the work themselves, including keeping the knotweed at bay. Ms. Peterson requested the punitive triple filing fee be reduced as it is disproportionate to the extent of the activity.

Bill Galvin made a motion to reduce the filing fee to \$1,500 and issue an order to correct as proposed in IWWA 2018-135 with the General Conditions and Special Conditions proposed by staff, seconded by Stephan Skoufalos, and carried, 7-0-0.

4. #2018-136 – 307 Shore Road – Aquarion Water Company for replacement of water main along Shore Road 2' from wetlands. Tax #N/A (first 65 days 12/26/18)

Bob Clausi reviewed this application for the agency, stating the project consists of the replacement of two miles of water distribution lines. The new main will be installed in the road. Within the larger project, there are two areas that are in regulated areas. The first involves a mainline and lateral, with the lateral coming within five feet of the wetland boundary. The second area is on Smith Road and the line is located 35 feet from a pond.

Dan Iannicelli of Kleinfelder appeared before the agency. He concurred with Mr. Clausi's report and recommendations. The work is due to begin in the spring of 2019 and should take six to eight months to complete.

Bill Galvin made a motion to approve action of IWWA 2018-136 with the General Conditions and Special Conditions proposed by staff, seconded by Jay Schondorf, and carried, 7-0-0.

5. #2018-138 – 9 Sabine Farms Road – S.E. Minor & Co., Inc. for Jill Dyal for residential additions, porch, garage, and driveway 51' from wetlands. Tax #10-2894 (first 65 days 12/26/18)

Bob Clausi described the proposal and site conditions. The wetland in the northeast corner of the site is vegetated with lawn and scattered large trees. This transitions into a meadow and woodlands beyond the subject parcel. A restoration plan, consisting of herbaceous species, was submitted for the wetland. As this is a new submission, the recommended list of Special Conditions for a permit need to be revised to require the appropriate bond for the plan. Mr. Clausi recommended a permit be issued.

Larry Liebman of S.E. Minor & Co., Inc. appeared before the agency. He urged the agency to forego a demarcation requirement. Given the landscaping of the site, a demarcation would detract from the aesthetics of property.

Discussion regarding the demarcation ensued and the it was the consensus of the agency that demarcation of the limit of lawn was prudent and the method to accomplish this could be worked out with staff.

Stephan Skoufalos made a motion to approve action of IWWA 2018-138 with the General Conditions and Special Conditions proposed by staff and the additional special conditions that a bond consisting of 20% of the value of the planting plan be submitted and this bond shall be held for a one-year hold period. Also, a means of demarcation shall be approved by staff. The motion was seconded by Jo Rogers, and carried, 7-0-0.

6. #2018-139 – 94 Pecksland Road – S.E. Minor & Co., Inc. for 94 Pecksland Road, LLC for a subdivision of the property and construction of a residence on the empty lot 84' from wetlands. Tax #10-1660 (first 65 days 12/26/18)

Norma Kerlin, Jo Rogers, Jay Schondorf and Alan Rossi were identified as having visited this site.

Mr. Clausi reviewed the application for this two-lot subdivision on 5.6 acres. The proposal includes an open space parcel. The regulated activities on the new lot include the house, driveway, septic and grading. There are regulated areas associated with the southern, on-site wetland and an off-site wetland to the east.

The applicant is also seeking a permit to upgrade an unpaved access route to create a second driveway to the developed area. The existing driveway provides access off Pecksland Road. Pursuant to the town's drainage manual, features to accommodate the added runoff would need to be constructed. The driveway and drainage features are in close proximity to the on-site marsh and the driveway also is within the regulated area of the off-site wetland. No mitigation for the driveway is being proposed and no justification for the driveway was provided. A feasible and prudent alternative with less impact to the wetlands would be to continue to use the driveway on Pecksland Road. If justification for the added driveway is established, the applicant should also substantiate its location.

Mr. Clausi listed several items needed. The off-site wetland should be shown on the map. The limit of landscaping for the new lot needs to be mapped. Is shifting the new house north and east feasible in order to preserve more of the woodlands in the regulated buffer and avoid steep slopes. Mitigation plans to compensate for unavoidable impacts needs to be submitted. And, DPW has requested additional information in order to complete their review.

Larry Liebman of S.E. Minor & Co., Inc. addressed the agency. He was not able to provide insight to the justification for the extended driveway. This was a decision by the owner's architect. The proposed open space is a separate parcel, not an eased area.

Chairman Harris reaffirmed the points made by Mr. Clausi. The driveway appears excessive and without purpose.

Alan Rossi asked Mr. Liebman to look into relocating the leaching field on the new lot to a place to minimize loss of woodlands. Also, the southern wetland provides opportunities for mitigation via vegetation enhancements.

Stephan Skoufalos made a motion to delay action on IWWA 2018-130, seconded by Elliot Benton, and carried, 7-0-0.

- 7. #2018-140 – 6 Oak Drive – Rocco V. D'Andrea, Inc. for 6 Oak Drive for demolition and construction of a single family residence 11' from wetlands. Tax #05-1614/s (first 65 days 12/26/18)**

Discussion of this application was delayed at the applicant's request.

- 8. #2018-141 – 20 Walsh Lane – Rocco V. D'Andrea, Inc. for James C. Cook for installation of a drain and limited dredging within pond/wetlands. Tax #02-1691/s (first 65 days 12/26/18)**

Consideration of this application was postponed at the applicant's request.

- 9. #2018-142 – 46 Meadow Road – Rocco V. D'Andrea, Inc. for Frederick L. Baker III and Mary W. Baker for exterior alterations of a dwelling 7' from wetlands. Tax #05-1511/s (first 65 days 12/26/18)**

Bob Clausi reviewed his staff report. The property has a watercourse that cuts across the lot behind the house, and then turning south alongside the house. The proposed work includes a small addition to the garage and stairway to the rear of the house. The work will produce 308 s.f. of new impervious area. This will be compensated for by disconnecting direct discharges from the roof leaders. The applicant is also willing to eliminate lawn immediately adjacent to the watercourse. Mr. Clausi recommended the hold period for this bond be one year.

Tony D'Andrea of Rocco V. D'Andrea appeared before the agency. He was agreeable to a five-foot buffer strip along the stream. He explained the excavation for the addition and stairs would be minimal, with the addition only having frost walls.

John Donovan, neighbor at 12 Hidden Brook Drive addressed the agency. He lives behind 46 Meadow Drive and has substantial issues with groundwater. He questioned if the proposed work would exacerbate these groundwater problems. Mr. D'Andrea responded the nature of the work will not impact groundwater one way or another.

Bill Galvin made a motion to approve action of IWWA 2018-142 with the General Conditions and Special Conditions proposed by staff and the additional condition that a five-foot planted streamside buffer be provided with the appropriate bond, seconded by Jay Schondorf, and carried, 7-0-0.

10. #2018-143 – Taconic and South Stanwich Roads – Tata & Howard, Inc. for Aquarion Water Company of Connecticut for as-of-right determination to replace a water-transfer pipeline, with clearing and grading within wetlands. Tax #N/A (first 65 days 12/26/18)

Norma Kerlin, Jo Rogers, Jay Schondorf and Alan Rossi were identified as having visited this site.

Patricia Sesto reviewed this application and section 4.2.e of the regulations. The proposal is to replace a waterline that extends from the Bargh Reservoir in Stamford to Rockwood Reservoir in Greenwich. This line presently runs through the road and private properties, before turning west across a private property and a valuable wetland on the Aquarion property. The new route would stay in Farm and Taconic Roads, until the project veers west onto Aquarion property. Once on property, the line runs parallel to the slope west of Taconic Road, then turns to eventually coincide with an old farm road. The pathway requires culverts to pass intermittent watercourses and some direct wetland impact.

In accordance with section 4.2.e, the water main to transfer impounded water from one reservoir to another qualifies as a non-regulated activity. This is in contrast to the application heard earlier, which was to facilitate distribution. Section 4.2.e limits the as of right work to that which is necessary to construct the waterline. It is in the agency's purview to evaluate the application to determine what is necessary.

The project narrative calls for uniform clearing of a 30-foot wide swath through the woodlands. No justification for this clearing has been provided. Also, grading to create an access road on top of the water line parallel with Taconic Road, creates a 50-foot wide area of disturbance. What alternative exist to minimize the grading and reduce disturbance in the wetland buffer. Mrs. Sesto suggested gabions or large boulders to retain the slope.

Ms. Sesto concurred with the applicant's position that replacing the waterline in the same location as the current one in the wetland was not preferable. While this route is much shorter, the direct wetland impacts are greater. Also, any future maintenance would require additional wetland disruption.

Matt Popp of Environmental Land Solutions, LLC expanded on the project description and indicated the applicant's intent to address staff comments. When asked, Mr. Popp explained the old waterline will be abandoned in place. It has leaks and cannot be reused.

Elliot Benton questioned the implications of leaving a leaking pipe in place in the wetland. Without the water supply running through it, won't it act like a perforated drain pipe? Mr. Popp acknowledged this possibility and agreed the abandoned pipe would be blocked.

Frank Parker of 276 Taconic Road spoke to the agency regarding his concerns for the 30-foot wide cleared swath, what the maintenance expectations are, and if this is the most prudent route to follow. Mr. Parker suggested Aquarion work with the private property owner, Ms. Molinari to access a shorter route. Once through the Molinari parcel, the line would skim the north side of the wetland and proceed to the same discharge point as currently used. Given this is a shorter route, there would be less impact and cost savings. Ms. Molinari was cooperative in granting a temporary easement two summers ago for the supplemental waterline used during the drought.

Mr. Popp conceded this alternative has not been explored, with Aquarion preferring to avoid private properties.

Stephen Bishop of 265 Taconic Road echoed Mr. Parker's concerns and suggestions. He further expressed his concern for his 100-year old oak tree and wanted efforts made to protect it.

Discussion ensued. Staff was then directed to consult with Town Counsel Wetmore to clarify and confirm the interpretation of the necessary element of the regulations and how this affects the agency's ability to pursue feasible and prudent alternatives.

Brian Harris made a motion to delay action on IWWA 2018-130, seconded by Stephan Skoufalos, and carried, 7-0-0.

V. Applications To Be Received

Chairman Harris made a motion to receive the fifteen applications listed on the agenda, seconded by Jay Schondorf, and carried 7-0-0.

- 1. #2018-146 – 49 Byfield Lane – Scott and Andrea Scheinin for maintenance of a fence in and adjacent to wetlands. Tax #11-2320 (first 65 days 1/30/19)**
- 2. #2018-147 – 153 Riversville Road – Kelly Varnell Virgona, Inc. for realign and reconfigure driveway 63' from wetlands. Tax #10-1042 (first 65 days 1/30/19)**
- 3. #2018-149 – 36 Crescent Road – Sound View Engineers and Land Surveyors for Huxley Investments, LLC for construction of a single family residence, driveway entrance, drainage and site grading 1' from wetlands. Tax #05-1889 (first 65 days 1/30/19)**
- 4. #2018-150 – 43 Burning Tree Road – S.E. Minor & Co., Inc. for Vankatesh and Donna Durvasula for construction of a residential addition, sports court, and pool 54' from wetlands. Tax #11-2307 (first 65 days 1/30/19)**
- 5. #2018-151 – 145 Weaver Street – Paul Niebuhr, Jr. for construction of a retaining wall 0' from wetlands. Tax #07-2233 (first 65 days 1/30/19)**
- 6. #2018-152 – 20 Meadow Marsh Lane – Conte & Conte, LLC for Martis Alex for removal of man-made pond, creation of a rain garden, and modification of a terrace within wetlands. Tax #06-3052/s (first 65 days 1/30/19)**

7. **#2018-153 – 12 Hillcrest Lane – Derron and Marion Slonecker for construction of a residential addition and associated activities 40' from wetlands. Tax #12-1532 (first 65 days 1/30/19)**
8. **#2018-154 – 200 North Maple Avenue – Greenwich Academy, Inc. for demolition and reconstruction of the lower school and northern parking lot, a middle school addition, demolition of two residences, and pond dredging in and adjacent to wetlands. Tax #07-4022 (first 65 days 1/30/19)**
9. **#2018-155 – 309 Taconic Road – Landtech for 309 Taconic, LLC for a four lot conservation zone subdivision through wetlands. Tax #11-2474 (first 65 days 1/30/19)**
10. **#2018-156 – 40 Stonebrook Lane – Robert and Coleen Giambo for installation of a deer fence through wetlands. Tax #08-1525 (first 65 days 1/30/19)**
11. **#2018-157 – 25 Cat Rock Road – Sound View Engineers and Land Suveyors for Eoin Ryan for construction of a patio and a subsurface drainage system 4' from wetlands. Tax #08-1281 (first 65 days 1/30/19)**
12. **#2018-158 – 14 Sawmill Terrace – S.E. Minor & Co., Inc. for Jeffrey S. Howard for installation of a footing drain and streambed maintenance. Tax #11-1803 (first 65 days 1/30/19)**
13. **#2018-159 – 24 Lower Cross Road – S.E. Minor & Co., Inc. for Kimberly Handler for tree removal and landscape improvements 45' from wetlands. Tax #11-3033 (first 65 days 1/30/19)**
14. **#2018-160 – 749 Lake Avenue – Joseph F. Risoli, P.E. for Blue Lake 749 LLC for construction of a pool house, pool, and patios 21' from wetlands. Tax #11-1941 (first 65 days 1/30/19)**
15. **#2018-161 – 65 Rockwood Lane – Joseph F. Risoli, P.E. for Sekou & Jennifer Kaalund for construction of a pool, patios, septic, and drainage improvements 8' from wetlands. Tax #11-1577 (first 65 days 1/30/19)**

VI. Agent Approvals

The Agency was provided three legal notices for projects approved by Authorized Agents. The projects are as follows:

1. **#2018-132 – 14 Carissa Lane – Kenneth J. and Jennifer L. Turano for construction of retaining walls and regrading with associated site improvements 40' from wetlands. Tax #11-2925**
2. **#2018-145 – 25 Tremont Street – Melanie Riera for completion of construction of a residential addition and carport 45' from Strickland Brook. Tax #08-2886/s**

3. **#2018-148 – 12 Knollwood Drive – J. Bond Septic Service for Ozair Minty for installation of a septic system. Tax #11-1289**

There were no questions or comments.

VII. Violations

1. **Cease and Correct Order #2018-14 – for Laura and Brian Markovich – 11 Druid Lane. Unauthorized removal of vegetation and manipulation of a wetland. Tax # 05-2111/s**

Laura and Brian Markovich requested discussion be delayed for Cease and Correct Order #2018-14 which was granted by the agency.

2. **Cease and Correct Order #2018-15 – for JP Greenwich Holdings LLC – 67 Caroline Place. Unauthorized fill adjacent to wetlands and watercourses. Tax # 09-2672/s**

Doreen Carroll-Andrews read the list of documents into the record and reviewed the Violation Summary. A neighbor contacted the office with concerns regarding fill material being stockpiled at 67 Caroline Place, along the slope leading to the Byram River. A site inspection confirmed this observation.

The homeowner was contacted and seemed amenable to correcting the issue.

Cease and Correct #2018-15 was sent to the property owners via certified and regular mail on November 19, 2018.

Ms. Carroll-Andrews recommends the agency maintain Cease & Correct Order #2018-15. Staff further recommends that a Certificate of Violation be filed on the Land Records if an application to address the subject violation is not submitted by the deadline of January 8, 2019.

Brian Harris made a motion to uphold the cease and correct order, seconded by Bill Galvin, and carried 7-0-0.

VIII. Other Business

1. **Appeal of approval by a duly authorized agent of deposition of additional fill in the Upland Review Area without modification to existing IWWA Permit #2015-36 of Brian and Nisha Hurst for construction of a single-family residence, driveway, in-ground pool, cabana, tennis court, septic system, and drainage system at 489 North Street.**

Mr. Clausi opened the discussion by describing various documents pertaining to the matter that had been distributed to the members. In September 2017, Mr. Clausi evaluated a change in grading and determined it was still in keeping with the terms of the previously issued permit and he signed off with no further permitting required. In 2018, a restatement of this

action was issued. It is this action the Zahids are seeking the agency to overturn. Several maps were included to depict the change in grading.

James Fulton of Whitman Breed appeared before the agency and described the actions taken by Mr. Clausi, the authority of the agency, and the deprivation of his client to participate in the review process. The change authorized by Mr. Clausi amounted to 300 c.y. of fill within a regulated area and the process of this authorization is in conflict with section 12 of the regulations. In response, the Zahids filed suit against the IWWA in the Superior Court.

As stated by Mr. Fulton, the town crafted a new “approval,” which Mr. Clausi signed, to close an administrative gap created by the 2017 sign-off. Neither Mr. Clausi nor the agency have the jurisdiction to grant an “approval” for after-the-fact activities. Mr. Fulton then recited various sections of the regulations that included the word “proposed” to make his point. He also identified defects in the “approval” as it did not conform with sections 7.9 and 12.1 of the regulations; specifically, the neighbors were not notified and no supporting documentation was submitted.

Discussion ensued. The September 2018 document Mr. Fulton refers to as an “approval” is a restatement of Mr. Clausi’s 2017 actions for the purpose of clarification. Special Condition #8 of the original permit specifically authorizes agency staff to approve grading within 50 feet of the wetland. Mr. Fulton stated he is arguing procedure and not the potential impacts to the wetlands from the work. Mrs. Sesto recapped the steps of issuing a field change, the criteria used, and then executing the 2018 document as prepared by town counsel.

Bruce Cohen of Fogarty, Cohen, Selby & Nemiroff, LLC, addressed the agency on behalf of his clients, the Hursts who own the subject property. He explained the suit filed was in question because the Zahids had not exhausted all of the administrative options available to them. By issuing the 2018 document and a legal notice of it, the Zahids then had the administrative opportunity to appeal the action of the agent to the agency. Mr. Cohen alerted Mr. Fulton to the legal notice and the appeal was filed. Mr. Cohen’s expressed intent is to have the suit dismissed now that the administrative process is cleared up.

Stephan Skoufalos made a motion to deny the appeal, stating the document was not an “approval” nor did staff exercise inappropriate procedures. No substantive information regarding wetland impacts were discussed. The motion was seconded by Bill Galvin. Discussion followed. Elliot Benton stated the revised grading amounted to a field change and the “approval” was issued to clarify this. Brian Harris furthered this comment by stating staff acted in accordance with their jurisdiction. With no additional discussion, the motion carried 7-0-0.

IX. Adjourn

With no further business, the meeting adjourned at 10:52 p.m.

Patricia Sesto
Director