

**CORNWALL INLAND WETLANDS AND WATERCOURSES AGENCY
MINUTES OF THE REGULAR IN-PERSON MEETING OCTOBER 3, 2022**

Present: Regular members, Peter Demy, William Hurlburt, alternate member Jeffery Morgan and IWWEO Karen Griswold Nelson.

Absent: regular member Alan Bahn, Debby Bennett, D. Stevenson Hedden and alternate and Robert Nethery

Vice chairman William Hurlburt called the meeting to order at 7:05 PM with a quorum established. Alternate Jeff Morgan was seated for regular member D. Stevenson Hedden

APPROVAL OF MINUTES: August regular and special meeting minutes, site walks minutes. Minutes of the meeting was deferred at the request of staff.

NEW APPLICATIONS:

PDR12- 2023 Petition for a Declaratory Ruling – Robert Helt owner/Dew Construction contractor/ – emergency repair to a driveway approved by IWWEO- 75 Warren Hill Road.

Griswold Nelson addressed recent visits to the site (photographs on file from September) and conversations with the property owner and the contractor regarding the plans for emergency repair to a driveway with a wetlands crossing blown out by the July storm events. Griswold Nelson, her conversations with site contractor, Darin Willenbrook, of Dew Construction in Warren, he was waiting for the stream to return to a semi-dry manageable state. It was agreed that Griswold Nelson would manage the oversight and approval of the project once conditions were right.

Motion made by Mr. Demy, seconded by Mr. Morgan to determine that **PDR12- 2023 Petition for a Declaratory Ruling – Robert Helt owner/Dew Construction contractor/ for emergency repair to a driveway approved by IWWEO- 75 Warren Hill Road** constitutes as “Use as of right” according to Section 4.d for maintenance of residential property with oversight by IWWEO: unanimously approved.

PDR-13-2023 – CT Home LLC owner/Sam Waterston applicant - reinforcement of bank to address erosion – 50 feet upstream of High Brook/south side of Birdseye Brook across from 106 Great Hollow Rd.

Property owner, Sam Waterston was in attendance to address the petition Mr. Waterston addressed proposed work to be undertaken by Mark Orth to address issues caused by recent flooding and severe storm events. Mr. Waterston addressed the proposed work to reinforce the eroding stream bank 50 feet upstream from 106 Great Hollow Road by stockpiling rocks at the top at the south end and judiciously rolling rocks down into the gully to reinforce the stream bed. Based on recommendations (kgn) that site walks (for both petitions being brought forth by Mr. Waterston be scheduled with the next several days so to allow Commission members to walk the site and both petitions being brought forth due to emergency, action was deferred until the Mr. Waterston addressed the particulars of the second petition.

PDR-14-2023 – CT Home LLC owner/Sam Waterston applicant – repair retaining wall at first bend above bridge at 106 Great Hollow Road.

Mr. Waterston addressed the plans to repair an existing retaining wall at the first bend above the bridge at 106 Great Hollow Road, stating that John LaPorta was expected to be the lead on the project. Based on the emergency nature of both situations, it was agreed that Special Site Walk meetings would be scheduled for Monday morning, September 9th at 9AM at Great 106 Hollow Road for Commission members to meet on site, review the plans with the parties involved and have both Petitions placed on the Special meeting agenda so that the Commission could act on the Petitions that day.

Motion made by Mr. Demy, seconded by Mr. Morgan, to defer action on **PDR-13-2023 and PDR-14-2023** to the October 9th, 2023 Special Site Walk meetings; unanimously approved.

PDR-15-2023 - Colby Engineering/Colby Gravel bank – repair to bridge and bank around bridge – Sharon Goshen Turnpike.

Griswold Nelson represented the application on behalf of Bill Colby, Colby Engineering, stating that she had been contacted by Mr. Colby regarding the continuing erosion about the Mill Brook bridge crossing and the need to address the matter. It was noted that work by Mr. Tyson as originally approved for the repair to the deck was on going and that both could be addressed at the same time.

Motion made by Mr. Demy, seconded by Mr. Morgan to determine that **PDR-15-2023 = Colby Engineering/Colby Gravel bank – repair to bridge and bank around bridge – Sharon Goshen Turnpike** constitutes as “Use as of right” according to Section 4.d for maintenance of an existing gravel operation property with the condition that the IWWE0 be notified prior to the state of work; unanimously approved.

Based on timing, Griswold Nelson asked the Commission to address pending Application 671 and 670 prior to all other business.

App# 671 - Abigail Gelfand and Daniel Seth Kammerman owners/Sam Sabin applicant – Activities within regulated areas for the construction of a swimming pool – 68 Whitcomb Hill Road prior to other business. According, the floor was opened to Mr. Sam Sabin, principle of Sabin Landscape Architects with an office in Torrington.

Information made part of the record:

Application and authorization form

Mapping prepared by

Sabin Landscape Architects, for Litchfield County Pools – Gelfand-Kammerman Res. 68 Whitcomb Hill Rd, Cornwall CT dated July 14, 2023 – Sheet L_1 – Master Plan, Sheet L-2 – Layout and grading Plan, Sheet L-3 -Planting Plan, Sheet L-4 - Erosion and sedimentation Plan- Sheet L-5- - Details and Notes.

Project narrative containing site photos and listing of abutting neighbors

On-site Soil investigation form prepared by JMM Wetlands Consulting Service, dated May 15, 2023 by James McManus MS CPSS, certified professional soil scientist DEEP reporting form.

Mr. Sam Sabin, Landscape architect, with an office in Torrington addressed the application with input from September 30th site walk attendees, IWWEO Griswold Nelson and Jeff Morgan. Mr. Sabin address the wishes by the property owners install an 18' x 40' inground pool on the site and addressed the two locations cited in the narrative and shown on the plans provided. Photographs (kgn cell phone) and photographs shown in the project narrative were discussed, with agreement that the preferred choice on the site with activities closer to wetlands were the second location cited. The reasoning behind the choices was based on the site contours, the plans to construct the pool by using a construction entrance from behind the house and working down, with protection of the wetlands and the septic system as described in the construction sequence provided the most protection and lesser potential for impact to downhill wetlands soils and watercourses. Accordingly

Motion made by Mr. Demy, seconded by Mr. Morgan, to approve **App# 671 - Abigail Gelfand and Daniel Seth Kammerman owners/Sam Sabin applicant – Activities within regulated areas for the construction of a swimming pool – 68 Whitcomb Hill Road AS PER THE ALTERNATIVE CHOSEN (NAMED 2)** as shown on the plans provided and referenced and described in the narrative with the following condition oral and written testimony of the applicant and representatives with the following conditions

1. The name and telephone number of the persons or entity responsible for the erosion and sedimentation control measures is to be provided and made part of plans on file.
2. The Land Use office shall be notified prior to the start of construction.
3. All erosion and sedimentation controls are to be installed prior to the start of the construction and the E&S controls are to be inspected by the Inland Wetlands Enforcement officer/ZEO prior to the start of work.
4. The site design engineer shall be responsible for the supervision of the site during all phases of construction for activities within regulated areas including maintenance of the erosion and sedimentation controls as shown.
5. The site design engineer shall be responsible for providing certification that the construction of the structure following the site plan. All inspection and certification expenses are at the expense of the property owners.

Motion unanimously approved.

PENDING APPLICATIONS.

App#670 – Gonzales Landscaping Inc. Owner, Bodwell Engineering applicant – Activities within regulated areas for the construction a single family residence – 18 Frederick Drive.

Notice of Violation/Show Cause Hearing – Gonzales Landscaping Inc. owner- Activities within regulated areas with a permit – 18 Frederick Drive.

Site Plan – Frederick Drive, Cornwall CT prepared for Gonzales Landscaping Inc, 26 Allen Rd, Norwalk, CT by Bodwell Engineering, Cornwall CT dated May 2023 revised to 6/9/2023.

Keith Bodwell, PE applicant for the property owner was in attendance to represent the application. Note was made of the attendees on the September 30th site, chairman Hedden, Jeff Morgan, Karen Griswold Nelson, Keith Bodwell, applicant and members of the public

Mr. Bodwell provided aerial "LIDAR" photos with contours dated 2016 from the State of CT website showing the (50 acre) property under violation by the current owner. Mr. Bodwell addressed the areas in which there was visual evidence of watercourses and drainage and the downhill flows as relating to the current situation under the violation order and the Regulated activity application submitted for the construction of a single family residence (as allowed in the Zone) with approved septic system (as required in the initial order) There was general discussion by Mr. Morgan and Griswold Nelson as to observations of the site during the recent site visit (photo's being submitted for the record by Mr. Morgan). Griswold Nelson addressed other concerns based on the fact that the site walk had not been on the entire property (by staff and or other attendees). Issues were raised by Griswold Nelson of other previous "unpermitted" activities as part of the use of the land for excavation and removal of earth materials (rocks for landscaping purposes) and concerns as to those activities continuing to impact downhill properties and drainage on Frederick Drive. It was noted that the downhill side of the property that had caused issues for Frederick Drive residents had not been addressed properly in that excavated material (uphill of silt fence installed) had not been properly addressed. Based on continued concerns, members in attendance asked for a motion to table discussion of the Application and the Notice of Violation.

Motion made by Mr. Demy, seconded by Mr. Morgan, to table discussion of **App#670** and the Notice of Violation to November meeting; unanimously approved.

APP #672 – Town of Cornwall - Town of Cornwall applicant owner/WMC engineering representative for the Town – engineered plans for a retaining wall that supports River Road near the Bridge at Route 128.

Mapping made part of the record:

Town of Cornwall – Plan for construction of River Road retaining wall – designed by WMC Consulting Engineers (Wengell, McDonnell and Costello) Newington CT

Sheets 1 – 10

Sheet 1 – Title sheet, 2 Existing Conditions Plan, 3 Roadway Plan and Profile, 4-5 Roadway Cross Sections 1-2, 6. Handling Water details, 7. Erosion and Sedimentation Control Details, 8 Handling Water Plan, 9 Structure Details, 10. Boring Logs, and Standard Drawings HW910-02 Metal Beam Rails and Guiderail, and HW911-02 R- B Anchorage Type 1 & 2, all dated 10/02/2023.

Commission members in attendance, Mr.'s Hurlburt, Demy and Morgan, were noted as members in attendance at the special site walk meeting held that morning with First Selectman Gordon Ridgway, Keegan Elder, PE and Stephen McDonnell/principal/PE from the firm of Wengell, McDonnell and Costello, Inc. and IWWO Karen Griswold Nelson.

Griswold Nelson addressed the status of the application submitted, stating that the plans reviewed in the field as referenced in the minutes were to be used for the submission of a bid for the reconstruction of the retaining wall supporting River Road near the bridge at Route 28. It was stated (Griswold Nelson) that the plans would be returning to the Inlands Agency for final review before the start of the project is approved at Town meeting.

It was noted (Griswold Nelson) that chairman Hedden had indicated his wishes that the bid document reflect project supervision by the design engineer during all parts of construction. Accordingly

Motion made by Mr. Demy, seconded by Mr. Morgan, to approve the submission of the plans referenced and made part of the record, for the bid process to move forward with final approval of the plans prior to the start of construction: unanimously approved,

ENFORCEMENT ACTIONS:

Notice of Violation/Show Cause Hearing – Gonzales Landscaping Inc. owner-Activities within regulated areas with a permit – 18 Frederick Drive.

Notice of Violation/Cease and Correct – Dark Entry Forest Inc/ property owner and Anthony Macchiaroli /non-property owner for work within regulated areas without permits – Cook Road. Communications received and on file in Town Hall.

August email for September meeting (cancelled/email forwarded to IWWA members

Dear IWWA,

Litigation remains pending as to the Macchiaroli case. Regarding the current erosion and sediment controls (“ESC”), all measures have been replaced, repaired, reinforced, and/or inspected on the following dates:

June 13th: In addition to repairing and reinforcing the preexisting ESC measures, DEF installed an additional 15 new hay bales, and 100 feet of new silt fencing with stakes;

July 9th: DEF inspected, repaired, and reinforced all preexisting ESC measures prior to a predicted rainstorm;

July 17th through July 26th: Due to July 10th rainstorm, DEF conducted repairs to preexisting ESC measures along Cook Road including: (i) installation of an additional 15 hay bales with wood and steel stakes; and (ii) installation of an additional 25 feet of new silt fencing with stakes.

DEF will continue to regularly monitor this Cook Road area. If you have any questions, please feel free to contact DEF.

Sincerely,

David Colbert, President

Dark Entry Forest, Incorporated

INLAND WETLANDS OFFICER REPORT.

CORRESPONDENCE AND COMMUNICATIONS RECEIVED.

OTHER BUSINESS PROPER TO COME BEFORE THE COMMISSION.

ADJOURNMENT

Motion made by Mr. Demy, seconded by Mr. Morgan to adjourn at 8:12PM; unanimously approved.

Respectfully submitted by recording secretary Karen Griswold Nelson, for Mr. Demy,
Commission secretary