

Town of Lebanon

INLAND WETLANDS COMMISSION

Regular Meeting

Lebanon Town Hall, Lower Level Conference Room

Monday, July 12, 2010 – 7:00 PM

MINUTES

Members Present: Chairman James McCaw, Secretary Robert Slate, Dean Gustafson, James Hallene, James Bender, David Martin, Dennis Latchum
Members Absent: John Drum, Carl Bender
Others Present: Philip Chester, Town Planner
Holli Pianka, Secretary

I. The meeting was called to order at 7:02 p.m. by Chairman James McCaw.

II. Acceptance of Minutes:

- a. June 7, 2010~Regular Meeting Minutes. D. Martin motioned, J. Hallene seconded, and members voted to approve the minutes as presented.
Abstained: J. Bender

III. New Business:

- a. **#IW-10-06: Jackie Himmelfarb, 11 Sunset Drive, Assessors Map 105, Lot 179. Install beach area and construct stonewall.**

Jackie and Burt Himmelfarb, owner/applicants, were present. Also present is Jim Connery, P.E., friend of the family. Ms. Himmelfarb stated that they had decided to make improvements to the property including building a deck and landscaping, but due to a miscommunication, their landscaper proceeded to create a beach area without their permission, removing stones and placing sand prior to applying for a permit. Upon receiving notification from Mr. Chester, all work stopped. The original plan indicates they will build a wall with stones and timbers/ties on the beach area at the existing level and remove and replace sand with sod along the steep grade, creating a shelf to step in. Ms. Himmelfarb modified her application and plan to eliminate the timbers/ties and to use only stones to build stone steps. Mr. Chester recommended a timeframe for the work to be completed. The Commission requires that hay bales with stakes and silt fence be installed immediately to prevent further run-off. This item will be placed on the next meeting agenda for approval.

- b. **#IW-10-07: Amston Lake Tax District, Maintenance Dredging of Amston Lake Northeast Cove**

No one is present to speak on behalf of the application. This item will be placed on the September agenda and Mr. Chester will 1) notify the applicant that a representative should be present, 2) indicate the volume of area to be removed and 3) notify the applicant that they are to notify all abutters and to forward this information to the Commission.

IV. **SHOW CAUSE HEARING/NOTICE OF VIOLATION ~ Corey Robert Spaulding, 83 Smith Road, Assessors Map 246, Lot 32 & Lot 32.001.**

Chairman McCaw called the hearing to order. The following items were read into the hearing record: a) Notice of Violation/Show Cause Hearing dated 07/02/10 from Mr. Chester to Mr. Spaulding; b) Previous Notice of Violation/Show Cause Hearing from Mr. Chester to Mr. Spaulding dated 06/08/10; c) Letter to Amey Marrella, Commissioner DEP from Mr. Spaulding dated 05/24/10; d) Plans received by fax from Mr. Spaulding on 06/07/10; e) Photographs of the site dated 06/01/10; f) Aerial photographs of the site dated 2004, 2006 and 2008.

Mr. Spaulding, owner, is present and stated that he understood that if he complied with the temporary remediation steps it would take care of the existing violation and he was to return to the Commission with additional plans for further remediation. He requested clarification of the new violation notice. Mr. Chester stated that this is a hearing on the evidence on whether there is a violation of the wetlands and gives notice to the applicant of the opportunity to respond to the Commission. Chairman McCaw asked Mr. Spaulding if he had any further documentation to enter into the hearing record to which Mr. Spaulding responded that he did and requested the following additional exhibits to be entered into the hearing record: g) Copy of spillway that exists and will be expanded; h) copy of elevations in relation to the dam showing flood levels; and i) copy of his #IW-AR-10-01 application. Mr. Spaulding will also submit additional photographs.

Chairman McCaw closed the Show Cause Hearing.

V. **Old Business:**

a. **#IW-AR-10-01: Corey Robert Spaulding, 83 Smith Road, Map 246, Lot 32 & Lot 32.001. Clean out of pond.**

Mr. Spaulding feels he cannot afford to proceed if proposed remediation will be done under anything besides an As of Right application and listed agricultural history of property.

Commission members expressed concerns with approving this application as an “as-of-right” due to their understanding that no agriculture takes place on the site and therefore the dredging of the pond is not essential to the farming operation, and given the lack of plan details and engineered plans.

A motion was made by Mr. Slate and seconded by Mr. Martin to DENY this application #AR-10-01 without prejudice.

Vote: Approved unanimously.

The Commission noted that they were not opposed to Mr. Spaulding dredging his pond but that engineered plans would be required for the regulated activity and that pond dredging was secondary to the remediation of the spillway caused by Mr. Spaulding's actions as there is no longer a pond today.

b. **SHOW CAUSE HEARING/NOTICE OF VIOLATION ~ Corey Robert Spaulding, 83 Smith Road, Assessors Map 246, Lot 32 & Lot 32.001.**

Chairman McCaw stated that Mr. Spaulding's letter to DEP does not mention that the dam was let out by Mr. Spaulding or that he created the violation and that this was the intention of the Commission's request.

Commission members agreed with Mr. Chester's assertion that the activity conducted by Mr. Spaulding without a permit was a "significant impact activity" as defined by Lebanon's Inland Wetlands and Watercourses Regulations and require engineered plans to remediate.

After further discussion, Mr. Slate made a motion, seconded by Mr. Martin, that the Notice of Violation be modified such that Mr. Spaulding submit within 90 days, engineered plans, along with an application for regulated activity to remediate the violation which caused the draining of the pond.
Vote: Approved unanimously.

VI. Correspondence:

- a. Copy of letter dated June 7, 2010, from CT DEP to Girl Scouts of Connecticut regarding Stiles Pond Dam in need of repairs and maintenance.

Town Planner's Report:

- a. Mr. Chester suggested rescheduling the August meeting due to the large number of expected absences. The Commission decided to call a special meeting on July 29, 2010 at 6:00 p.m. and cancel the August 2, 2010 regular meeting.
- b. Graywall Farms project is nearly complete.
- c. FEMA was in to discuss the Flood Plain regulations and revised FIRM maps.

VII. Moved by R. Slate, seconded by J. Bender to adjourn the meeting at 9:10 p.m.

Vote: Approved unanimously.

Respectfully Submitted,

Holli E. Pianka, Land Use Secretary

July 15, 2010

(Minutes are unapproved as of transcription date.)