

**Brooklyn Inland Wetlands and Watercourses Commission
Regular Meeting Minutes
August 13, 2019**

The Brooklyn Inland Wetlands and Watercourses Commission held a regular meeting on Tuesday, August 13, 2019 on the following:

Call to Order: The meeting was called to order at 6:00 p.m.

Members Present: Jeffrey Arends, Demian Sorrentino, Richard Oliverson, James Paquin.

Absent: George Sipila with notice.

Staff Present: Margaret Washburn, WEO, Rick Ives, First Selectman, Audrey Cross-Lussier, Recording Secretary.

Also Present: Dick Regis, Moe Lapierre, Don Francis, Paul Archer, Aaron Kerouac, Mark Olivo.

Roll Call: All members present stated their name for the record.

Seating of Alternates: None.

Public Hearings: None.

Public Commentary:

Don Francis, 605 Wolf Den Road voices his concerns with regards the over-use of herbicides being sprayed on roadsides, especially near open water. Herbicides have been sprayed on Darby Road in the location of White Brook as well as on Elliott Road near a brook. The herbicide has wiped out everything along the guardrail and behind it near the waterway. Mr. Francis commented that the State uses herbicides on the highways near guardrails but does not spray all of the background area. Mr. Francis commented the Conservation Commission has a guide for groundwater protection in Brooklyn with mention of herbicide usage. Mr. Francis would like the Commission to discuss this issue in the future. Chairman Arends thanks Mr. Francis for his comments.

Mr. Paquin said the wetlands prevent more water on land downstream.

Additions to Agenda: None.

Approval of Minutes:

1. Regular Meeting Minutes July 9, 2019. The minutes are accepted as written with no changes.

Old Business: None.

New Business:

1. Hearing for violation of wetlands permit 011216A Richard Regis, 35 South Main Street, Map 41, Lot 57, PC Zone; Placement of fill and lot re-grading within regulated area.

The site is located at the corner of Proulx Street and South Main Street. A site inspection was performed by Ms. Washburn and Chairman Arends in the response to a complaint. Close to 5,000 sq. ft. of wetlands have been filled. There were remnants of silt fence visible only at the north and south ends. Ms. Washburn provides an inspection report for review. Ms. Washburn contacted Mr. Regis and gave a verbal cease and desist order. Ms. Washburn also sent the cease and desist order to Mr. Regis by regular and certified mail. Mr. Regis told Ms. Washburn that Jolley was bringing in the fill. Ms. Washburn called/e-mailed Wayne Jolley who agreed to stop bringing fill to the site. A letter was also sent to Wayne Jolley regarding his role in filling the wetlands. The regulations say that the contractor can be held equally liable. On July 31st Mr. Regis came into the office and asked for a copy of the site plan and a list of the IWWC members, which were given to him. Mr. Regis agreed to come to the hearing tonight.

Mr. Sorrentino commented that there was a permit issued to prepare the site for development while protecting the wetlands onsite. Mr. Sorrentino has witnessed the fresh stone there which goes straight back along the eastern property line. Ms. Washburn commented there is an eastern property boundary pin at the edge of the fill. Mr. Arends commented you can only see where there was silt fence at the north and south ends of the filled area.

Moe Lapierre, Wauregan Rd, employee of Brooklyn Sand and Gravel, helps with the representation of Mr. Regis. Mr. Regis as well as Mr. Lapierre observed no wildlife living within the wetlands area. Mr. Lapierre commented that he does not believe Mr. Regis knew that this was a portion of the wetlands. There were holes filled in a few years ago to flatten off the piece of the property. Mr. Regis was looking to square off the property. There is a drain back there that was not filled in. The drain was cleaned out as it was clogged.

Mr. Arends asked Mr. Lapierre if he was out there when Mr. Jolley's men were placing the fill. Mr. Lapierre commented he works for Mr. Jolley. Mr. Lapierre said that Mr. Regis told Brooklyn Sand and Gravel what he wanted done. Mr. Arends commented that the silt fence would have been a wetlands clue. Commission Members discussed what should be done, file an application to permit the filling activity or order them to remove it.

Mr. Oliverson asked about the drain on the property. Mr. Ives stated there is an easement to the Town, and they are responsible for the pipe. Mr. Ives believes the pipe is broken; a tree needs to come down; and the pipe needs to be fixed. He is not sure if this is related to the fill, but it is something the Town needs to take care which will help the water flow to the wetlands. Further discussion ensued with regards to what shall be done. Mr. Ives requests that the order be put in writing. A soil scientist must oversee the removal of fill from the wetlands.

A letter from soil scientist must be submitted once the work is complete.

A motion was made by Demian Sorrentino to authorize the Wetlands Enforcement Officer to follow the cease and desist with remediation order to return the site to compliance with the approved site development plan that was reviewed with the 2015 permit, plan dated 12/28/15 prepared by PC Survey Associates, with compliance ordered to be achieved within 30 days. Jim Paquin seconds this motion. Discussion was held.

Mr. Paquin asked if compliance is deemed with acceptance of a report or are, we giving them more time to provide a report after they have actually done the work.

Commission Members deemed 30 days to complete the work, 2 days to receive a report from the soil scientist once work is complete.

Vote was taken – All in favor, motion passes unanimously.

2. Jurisdictional Ruling David Ford/Applicant, John Farrell/Owner, 14 Brown Road, Map 25, Lot 46-1 VCD Zone; no wetlands on property.

Paul Archer, Archer Surveying represents applicant. The property is located on the corner of Brown Road and Hyde Road. Back in 2010 soil scientist Mike Schaefer reviewed the lot, Mr. Archer demonstrates this on the site plan. The applicant is looking for a jurisdictional ruling; this will go to subdivision, but a ruling is needed stating there are no wetlands on the property.

Ms. Washburn visited the site today, took pictures and agrees that there are no wetlands or upland review areas projected from any surrounding properties.

Mr. Archer commented that Ms. Washburn is following protocol of what was done prior.

Mr. Sorrentino comments that as a matter of procedure the Statute says, “if the subject property contains inland wetlands or watercourses regulated pursuant to the inland wetlands and watercourses act, the Inland Wetlands Commission is to send a report to the Planning and Zoning Commission.” It is very clear about whether or not the property contains inland wetlands or watercourses. Regulated areas overlapping from wetlands and watercourses on adjacent properties could cause regulated activities to be associated with the subdivision. Mr. Sorrentino does not think the applicant needs to come to the Wetlands Commission. If the property does not contain inland wetlands and watercourses as it has no regulated activity. If there is a regulated

activity, they will come for the regulated activity, and the plan will be reviewed in its entirety. Discussion ensued.

Mr. Archer asked the Commission if they would like to receive a letter from a soil scientist that states there are no wetlands on the property. Mr. Sorrentino commented that he feels it needs to be inspected by a professional qualified to make that determination.

Mr. Arends commented on grades of a property with very steep downhill slopes heading to wetlands. Mr. Paquin asked what the procedure is to ensure there are no wetland soils that are or adjacent properties that might be impacted.

Ms. Washburn recommends looking at a soils map as that is how wetlands are defined. Chairman Arends raises a valid point; Ms. Washburn commented that within the regulations it states that if proposed work was beyond the upland review area, that the Commission could deem it jurisdictional. Mr. Archer comments that should be left up to staff to make that determination. Mr. Sorrentino agrees with this statement, Ms. Washburn is comfortable with this.

A motion was made by Demian Sorrentino to make a determination that the Inland Wetlands Commission has no jurisdiction over the subdivision. Richard Oliverson seconds this motion. No discussion held. All in favor. The motion passes unanimously.

3. 081319A Mark Olivo, 49 Pomfret Road, Map 25, Lot 16, VCD Zone; Residential Home, farm store, septic system, well, minor grading and driveway.

Paul Archer, Archer Surveying represents the applicant along with the owner Mark Olivo. The property is located at 49 Pomfret Road. An approval was granted by IWWC for application 061014B filed by Catherine Jones on July 22, 2014.

Also, application 071117A, Catherine Jones and Alex LeBlanc, was approved on August 8, 2017 with regards to clearing, grading and excavating activity associated with stone wall removal in upland review area adjacent to watercourse (stream and swamp) without permit.

Ms. Washburn mentioned that the PZC Record of Special Permit has never been recorded.

Mr. Archer stated that the former property owner proposed to use the existing septic system; the new owner Mr. Olivo will install a new septic system.

Mr. Paquin asked for information with regards to the farm store. Mr. Olivo commented that he is a beekeeper. The store will be 20 x 24 ft structure used for a farm products, including bee-keeping supplies, jams, jellies, and flowers. The Commission asked that the upland review area be added to the plan.

Mr. Paquin calls attention to calling the structure a store, recommends relabeling to a farm stand.

Mr. Olivo commented he will remove the existing garage. In the future a 24 x 40 ft workshop will be built to the back of the property. Mr. Sorrentino recommends showing it on the plan. Mr. Archer will submit a revised plan.

A motion was made by Demian Sorrentino to receive application 081319A, Mark Olivo, 49 Pomfret Road and table discussion to the next regularly scheduled meeting. Richard Oliverson seconds this motion. No discussion held. All in favor. The motion passes unanimously.

The next scheduled IWWC meeting will be Tuesday, September 24, 2019 at 6 p.m. at the Clifford B. Green Meeting Center.

4. 081319B School Street development/Applicant, BLB LLC/Owner, School Street, Map 33, Lot 19, R30 Zone; Proposed multi-family housing.

Paul Archer, Archer Surveying represents application 081319B. The property is a 13.5-acre parcel located on School street next to the elementary school. The proposed project is to build a multi-family housing apartment complex. The site is served by city sewer and water. It has been rezoned to R-30. The wetlands were flagged by Joe Theroux. Ms. Washburn commented the plans do not say who flagged the wetlands or when. Mr. Archer will supply a soil scientist report.

Mr. Sorrentino questions where is the boundary line in between the elementary school property and the school street right of way? Mr. Archer demonstrates this on the site plan. Mr. Sorrentino asks if the property has frontage on a town road. Mr. Archer commented that School Street has frontage on a town road. Mr. Sorrentino questions where does it end? Mr. Archer demonstrates this on the site plan. Mr. Sorrentino comments that there is some discrepancy and it needs to be resolved. The project cannot happen if you cannot access the property. Mr. Sorrentino questions if this is a viable application before the Commission. Mr. Archer stated this property is an existing property of record. It does have frontage on School Street (Louise Berry Blvd). Mr. Archer will have the boundary line information available for next month's meeting.

Ms. Washburn would like to see the following shown on the site plan: impervious surfaces all labeled, a drainage report, the watercourse delineated showing the associated 175-foot upland review area, the pages should have legends on them, the underground electrical service.

Mr. Paquin asked if this is being proposed as a Town Road. Mr. Archer stated no. Mr. Paquin asked what the maximum limits of a cul-de-sac in the Town of Brooklyn? Mr. Archer stated there is not one. Mr. Paquin comments that the Fire Department would have say on this for public safety. Mr. Archer commented that this has been discussed in the past with the Fire Department. There will be fire hydrants.

Ms. Washburn asked if there will be only one egress and access point, it will not have two entrances and exits? Mr. Archer stated that is correct.

Ms. Washburn asked if the utilities are underground, Mr. Archer stated yes. Ms. Washburn commented there are no test pits shown under the basins to show separations from ground water; this will have to be done. Mr. Sorrentino comments that permeability testing within the detention

basins is standard practice. Ms. Washburn asks who witnesses the permeability tests. Mr. Archer commented that the engineer or soil scientist can witness and sign off.

Mr. Paquin asked where the sewer line is. Mr. Archer demonstrates on the site plan. Discussion ensued.

Ms. Washburn asked the Commission if they wish to see the same plan that is going to be presented to PZC. Commission members are all in agreement.

Ms. Washburn asks if input should be sought from the Fire Marshal or Fire Chief. Mr. Archer and Commission members are all in agreement.

Discussion ensued with regards to receiving the application that was presented. Commission members feel the plans are not complete.

Ms. Washburn comments on the application fee collected. Should this be based on a commercial project and additional fees required based on square feet of impervious surface? Discussion ensued. Commission members agree that a commercial fee should apply.

Mr. Arends would like to see the 175-foot upland review area from the watercourse on the plan.

Mr. Archer withdraws the application and will resubmit the application at the September meeting. Mr. Archer will supply an e-mail to Ms. Washburn in writing withdrawing the application.

Communications:

1. Budget Update: Reviewed. Well within budget.

2. Wetland Agent Monthly Report:

473 Pomfret Road – The Learning Clinic. Ms. Washburn received a complaint from Real Gallant with regards to driveway modifications and a dumpster being moved. Ms. Washburn met with Tathan Francis, caretaker. Mr. Francis showed where he leveled out a pile of fill for tree professionals to access some dead limbs that needed to be removed. There will be more tree removal in the future. He agreed to place hay mulch and seed down on the steep slope where the fill was pushed and place haybales at the toe of slope. Mr. Gallant felt a special permit was necessary when modifying a driveway. Ms. Washburn could not find any evidence of that.

Tripp Hollow Road Culvert – A complaint was received from A J Kerouac. Ms. Washburn visited the site with Tom Rukstela. They looked at the culvert and took photos. It appears to be in good condition, hardly any water flowing through it.

42 Appell Road – A wetlands permit was issued for the logging job on the Wolchesky property. The logging is ongoing. Mr. Paul Harrington called to complain about logger putting stones on the road in front of his house. Ms. Washburn visited the site on 8/12 and took photographs. Mr.

Harrington stated the stones are about 1 foot into his lawn, he is very upset. Mr. Harrington would be happy if the stones were removed once the logging operation was done. Ms. Washburn asked the Commission for guidance. Chairman Arends suggests Mr. Harrington to engage in conversation with the neighbor as this is a civil matter.

Gorman Road – Ms. Washburn visited the School where old asphalt had been dumped on a trail. The asphalt has been removed.

64 Paradise Drive – The owners are working with KWP for a site plan. The in-ground pool would be in the upland review area.

Public Commentary:

A J Kerouac would like to review the Tripp Hollow Road culvert photos.

Mr. Arends commented on the use of herbicides. Mr. Paquin would like to know the reason why they are using the herbicide. Ms. Washburn reached out to Tom Rukstela about this complaint. Mr. Rukstela stated that two years ago the State told him it was okay to use herbicide near wetlands as long as it is not sprayed directly into the water. Selectman Ives stated that they had been through this before, and the CT DEEP approves what they are doing. Mr. Paquin asked if this is in writing. Ms. Washburn stated no. Mr. Francis asks if the Town has any training or hold a license. Ms. Washburn commented that because Round Up is not restricted, it does not require a license. A license is required for spraying restricted pesticides. Discussion ensued. The Commission would like more information on this issue.

Adjourn: A motion was made by Demian Sorrentino to adjourn the meeting at 7:27 p.m. James Paquin seconded this motion. No discussion held. All in favor. The motion passes unanimously.

Audrey Cross-Lussier
Recording Secretary