

**Brooklyn Inland Wetlands Commission
Regular Meeting Minutes
June 12, 2018**

The Brooklyn Inland Wetlands Commission held a regular meeting on Tuesday, June 12, 2018, at 6:00 p.m. on the following:

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

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

Members Absent: George Sipila with notice.

Staff Present: Martha Fraenkel, Wetlands Agent, Audrey Cross-Lussier, Recording Secretary.

Also Present: Paul Archer, Bruce Woodis, John Gibson, Connie Stula, Attorney Harry Heller, Aaron Kerouac, Don Dubois, William Macnamara, public in attendance.

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

Seating of Alternates: None.

Public Commentary: None.

Additions to Agenda:

A motion was made by Demian Sorrentino to add to the agenda under new business item #3 061218A VBL Properties, Beecher Road, Map 22, Lot 38-1, Single family home, septic system, well, driveway and minor grading. All work being done in the upland review area. Jim Paquin seconds this motion. No discussion held. All in favor. The motion passes unanimously.

Approval of Minutes:

1. Site Walk Minutes May 7, 2018. Minutes are accepted as written with no changes made.
2. Regular Meeting Minutes May 8, 201. Minutes are accepted as written with no changes made.

Public Hearings:

1. 050818D Jeffrey Weaver, Day Street, Map 43, Lot 6, RA Zone; Proposed 10 lot subdivision.

A letter was submitted from Archer Surveying, LLC on behalf of Jeffrey Weaver asking the Commission to postpone the opening of the public hearing until the next meeting in July.

A motion was made by Demian Sorrentino to postpone the opening of the public hearing until July 10, 2018 regular meeting. Jim Paquin seconds this motion. No discussion held. All in favor. The motion passes unanimously.

Old Business:

1. 050818D Jeffrey Weaver, Day Street, Map 43, Lot 6, RA Zone; Proposed 10 lot subdivision.

A motion was made by Demian Sorrentino to table 050818D Jeffrey Weaver to the July 10, 2018 regular meeting. Richard Oliverson seconds this motion. No discussion held. All in favor. The motion passes.

2. 041018A FCR Realty; North of Brickyard Road/West of Day Street, Map 41, Lot 6, RA Zone; Gravel removal permit; project is in upland review area, no wetlands disturbance proposed.

Bruce Woodis, KWP Associates represents application 041018A. Mr. Woodis missed the site walk of May 7, 2018 due to a medical emergency. The site plans have been slightly revised. The 175 ft upland review area from the watercourse has been added. , The wetlands have all been flagged and located on the plans. Mr. Woodis reviews the Soil Scientist Joseph Theroux's report dated April 24, 2018. All of the wetlands follow the apparent edge of high water mark with little deviation.

Ms. Fraenkel commented the most significant point of interest was the limit of disturbance or separation between the proposed operation and the wetlands. Per the plan it has been delineated 50 feet paralleling the wetlands/watercourse/swamp to be free of activity. Ms. Fraenkel asked Mr. Woodis to review this area regarding the nature of the land, vegetation and the grade.

Mr. Woodis commented that in general all of the land outside of the limits of disturbance is all vegetated, wooded with understory. This will be left undisturbed. All of the excavation will be inwards. Once the limits of the existing or proposed disturbance are clearly marked in the field there should be no trees cut, no additional disturbance beyond this limit. Ms. Fraenkel has suggested some sort of fencing be placed so the contractor knows where they can and cannot go. With this being done Mr. Woodis does not see any potential disturbance to the wetlands. Ms. Fraenkel has suggested that lime and fertilizer not be used when reclamation is completed.

Ms. Fraenkel discusses the Phase 1 and Phase 2 of the plan. Phase 1 is the northerly part of the site, pushing north from what has been disturbed already. Phase 2 (southerly) will excavate

downward and proposed final grades will create a pond. Ms. Fraenkel discussed the phase line for part of Phase 1 where seeding of the existing stockpile is proposed.

Mr. Woodis discussed the siltation run off from the stockpile; what is proposed is an immediate/temporary solution to the siltation problem there. They would use New England seed mix. There will be no permanent restoration until the stockpile is gone through either processing or redistribution throughout the site.

Ms. Fraenkel stated that Syl Pauley has not reviewed the plans, but if the Commission requests it can be done.

Chairman Arends asked how long this operation will be open. Mr. Woodis stated until they remove all of the material which is typically based on market demand. Mr. Woodis said approximately 5 years maximum. Ms. Fraenkel stated there is an estimate of 10 to 15 trucks daily stated on the plans. Mr. Woodis stated that estimation is based on maximum. Mr. Sorrentino asked if this permit will be seen every year by the Commission. Ms. Fraenkel stated yes unless the regulations are changed.

Ms. Fraenkel stated she made suggestion about notation changes on sheet 3; permit duration; demarcation of disturbance; possible modification to notes on sheet 3 re no activity within 50 feet of wetlands; soil shall not be disturbed, including stump removal, until erosion controls have been installed and approved by IWWC staff; all erosion and sedimentation measures shall be checked by the owner not less than once per week; seed mixture be approved by staff prior to use; for permanent seeding, warm grass mix required; no lime and fertilizer application; no refueling shall occur no less than 100 feet from any watercourse or wetlands.

Mr. Sorrentino questioned on the wetlands side of Phase A northerly of the crossing; there was an area where soil had been pushed approximately 30 feet from the wetlands edge, it is definitely beyond the 50-foot minimum area. It was a recent disturbance. Ms. Sorrentino recommends this be noted and incorporated into the restoration on the front end of the project. Mr. Woodis agrees to identify this area.

Chairman Arends asked if there are any dust control measures in place. Ms. Fraenkel stated it is noted on the plans. Mr. Woodis stated the dust is pretty well self-contained within the area of excavation and just outside of the gravel haul road.

A motion was made by Demian Sorrentino to approve the application of FCR Realty for a sand and gravel operation west of Day Street known as Assessor's Map 41 Lot 6 and Map 35 Lot 7 on 20 acres of 200 acres total, based on the submitted application and plans prepared by KWP Associates titled "Gravel Removal Plan Prepared for FCR Realty LLC Westerly of Day Street and Northerly of Brickyard Road, Brooklyn, Connecticut, 3 sheets, dated 1/24/17 and revised to 5/31/18 with the following conditions:

Conditions of Approval:

1. Permit Duration: The permit duration is controlled by Inland Wetlands and Watercourses Regulations Section 11.6. Pursuant to this Section, this permit will expire on the same

date as the expiration date of the forthcoming sand and gravel permit (specific expiration date is to be determined), or 5 years, whichever is less.

2. Demarcation of disturbance. The permittee shall install orange snow (construction) fence and operation limits signs at the (50 ft) limit of disturbance line that parallels wetlands to prevent any further intrusion into the upland review area. The permit holder FCR Realty shall report compliance with this requirement in writing to the Wetlands Enforcement Officer on a quarterly basis beginning at the commencement of operation and thereafter every 3 months.
3. Modification to notes on sheet 3. The notes shall be modified as follows:
 - #2. Note states there is no activity within 50 feet of wetlands.
 - #3. Amend note to state that the soil shall not be disturbed, including stump removal, until erosion controls have been installed and approved by IWWC staff.
 - #6. Revise to state "All erosion and sedimentation MEASURES shall be checked by the owner NOT LESS THAN ONCE PER WEEK.
 - #8. Seed mixtures shall be approved by IWWC staff prior to use and shall be appropriate for the site as determined by IWWC staff following evaluation of site conditions. For permanent seeding, warm season grasses are required.
 - #9. Delete the second sentence regarding lime and fertilizer application.
 - #13. Any refueling shall occur no less than 100 feet from any watercourse or wetlands.
4. Final Plans.
 - The final plans shall (1) depict the snow (construction) fence and (2) note that signs shall be placed as required in #2 above.
 - One set of final plans shall be submitted with the live signatures and seals of all design professionals including soils scientist with a signature block on each sheet for signature by the IWWC Chair.
5. Standard IWWC Conditions (attached) shall apply.

Reasons for Approval (See Regulations Section 10.2, 10.3)

1. The IWWC has found no evidence that there has been damage to or pollution of the adjacent watercourse or wetlands due to the prior activity at this location.
2. The risk of disturbance and pollution of wetlands and watercourses is minimized by the required 50-foot corridor between the activity and the wetlands and watercourse.
3. No feasible and prudent alternative to the proposed activity has been found.

Jim Paquin seconds this motion. Discussion held. Motion amended to replace snow fence with "orange construction fence". All in favor. The motion passes unanimously.

3. DR18-003 Paul Lehto, Owner, 40 Almada Drive, Map 21, Lot 6, RA Zone Dana Hopkins, Supervising Forest Harvester; Request for Ruling as of Right Use for selective timber harvest and removal of logging debris.

Dana Hopkins, Forest Harvester was not in attendance, therefore Ms. Fraenkel reviewed the plan with Commission Members. Ms. Fraenkel walked the site today and noted it is a dry site at the top of the hill. There is no standing water and no crossings. There is an established road around the perimeter of the property. The timber harvest is to remove standing dead oak trees.

Chairman Arends asked if Mr. Hopkins is a certified forester. He has appropriate credentials per Ms. Fraenkel. Mr. Sorrentino asked if the applicant has been present on the acceptance of the application. Ms. Fraenkel stated no. The timber harvest is set to start August 1st with an estimate of 500 cords. Mr. Arends asked if they know when the project will be completed. Ms. Fraenkel is not sure. Mr. Sorrentino asks Ms. Fraenkel if she is comfortable with the fact that there has never been representation with the applicant. Ms. Fraenkel state yes, she has discussed the project with the applicant and owner. Ms. Fraenkel stated this is a ruling request, not a (permit) application. If this is uncomfortable for the Commission it can ask the applicant to be present at the July meeting.

A motion was made by Jim Paquin to approve the right of use for selected timber harvest for removal of logs and debris on application DR18-003, Paul Lehto, Owner, 40 Almada Drive, Map 21, Lot 6, RA Zone, Dana Hopkins Supervising Forest Harvester. Demian Sorrentino seconds this motion. Discussion held.

Jim Paquin modifies his motion to approve request DR 18-003 for a ruling of the Brooklyn IWWC for a use as of right pursuant to Inland Wetlands Regulations Section 4.1.1 for a timber harvest at 40 Almada Drive Map 21 Lot 6, property of Paul Lehto. Proposal is for harvest of 500 cords on a parcel of 115 acres. Removal consists of timber impacted by gypsy moth defoliation; cut and remove all dead and defective trees by selective cut, with removal of logging debris, according to an application submitted by Dana Hopkins, Supervising Forest Products harvester, estimated to begin on 8/1/18. No wetlands crossing is proposed. Demian Sorrentino seconds this motion. No discussion held. All in favor. The motion passes unanimously.

4. 050818C A. Kausch & Sons, LLC, South Street, Map 46, Lot 37-4, R-30 Zone; Residential home, septic system, well, minor grading.

Paul Archer, Archer Surveying, represents the application 050818C. This lot was part of a previously approved 6-lot subdivision. The house, driveway and grading has already been approved by the IWWC Commission as part of the subdivision. The rear three lots of the subdivision at the initial presentation were to be tied into the public sewer. It has been decided to place the last 3 lots on sanitary sewer. The applicant is asking for permission to install a septic system. This lot will be served by public water. Approval minutes dated July 26, 2017 from the WPCA are in the Commissioner's packets for review allowing the three lots to have private septic systems. Mr. Sorrentino reads the motion into the record from the July 26, 2017 meeting minutes of the WPCA.

Mr. Archer discusses where the location of the septic system is being installed and demonstrates this on the site plan. There is a letter from Department of Health indicating the soils are suitable for the septic system. It will be a non-engineered system. Ms. Fraenkel confirms that the Department of Health Letter is in the file.

A motion was made by Demian Sorrentino to approve the application of Andrew Kausch & Sons for development of a 0.8-acre lot on the east side of South Street known as Lot 37-4, based on a plan titled "Site Development Plan "Septic System 37-4" Prepared for A. Kausch & Sons LLC, South Street, Brooklyn, CT by Archer Surveying LLC, dated June 2, 2018. The lot was previously approved by the Brooklyn PZC on October 5, 2016 as part of the A. Kausch & Sons Subdivision with lot being served by municipal sanitary services (sewer hookup).

Approval is granted with the following conditions:

1. The IWWC standard conditions revised to 12/13/16 shall apply.
2. Permit is valid for 5 years from date of approval.
3. Prior to any disturbance on the lot, the permittee shall meet with the wetlands officer to review the approval conditions.

The application is approved based on a finding that the activity as proposed and approved will have a minimal impact to the wetlands. Jim Paquin seconds this motion. No discussion held. All in favor. The motion passes unanimously.

New Business:

1. Permit Review Village in the Woods Subdivision, Subdivision phasing; Old Tatnic Hill Road, Meehan Builders, LLC/Attorney Harry Heller.

Attorney Harry Heller represents applicant Meehan Builders, LLC. Attorney Heller stated that this is not an application. Attorney Heller stated there is a pending application before PZC for an extension of the subdivision approval and the rephasing of the property. Mr. Heller was requested to come before the IWWC to discuss two issues; the rephasing to determine that the rephasing does not result in any activities or impacts which were not within the scope of the original wetlands permit.

Village in the Woods is a 71-lot subdivision located at the southern portion of Old Tatnic Hill Road and also has frontage in two locations on Tripp Hollow Road. The original approval was 71 lots in 7 phases. There were a number of wetland activities that were incorporated into the IWWC approval. There are only two activities that resulted in direct impact to the wetland watercourse. There was a proposed filling of 456 sq. ft. of wetland area in conjunction with a common driveway to provide access for lots 59, 58 and 57 and also for the emergency access way for emergency access vehicles out to Tripp Hollow Road. There was a disturbance of 30 sq. ft. to drill holes for sono-tubes that provide support for the timber bridge which was approved to cross the wetlands in conjunction with the emergency access to the Tripp Hollow Road. These were the impacts that were approved by the IWWC. There was also a significant number of upland review activities that were permitted in conjunction with the construction of the Hennessey Place, several storm water discharges and a lot of activities where there were upland review activities on individual building lots, footing drains and septic system locations.

Two items have been requested for discussion. First is the status of the permit. The permit was originally issued in May of 2006. In January of 2011 the applicant came before the Commission seeking approval of an extension which was at the time contemplated to be a 5-year extension of

the permit. That extension was granted by the IWWC on February 8, 2011. That permit would have expired in 2016, but for, the legislative action taken in May of 2011, Public Act 11-5 modified subsection 22a-42a of the Statutes, that now provides (notwithstanding the provision of subdivisions 2 of subsection d), that any permit issued under this section prior to July 1, 2011 (in this case renewal granted in February 2011), that had not expired prior to May 9, 2011 was statutorily extended for a period of 9 years instead of 5 years. Reading of the statute is clearly the permit that was in the effect was extended by act of the legislature; in this case the permit now expires in February of 2020.

The second item is the proposed rephasing. The original phasing contemplated 7 phases. The application which is pending before the PZC is seeking approval to rephase the project into four phases: Phase 1 being the development of section of Old Tatnic Hill Road and the development of Muriel's Way with 10 proposed lots in Phase 1; Phase 2 would incorporate the old phases 5 and 6 with the extension southerly of Old Tatnic Hill Road to a cul-de-sac with development along that road; Phase 3 incorporating about the same degree of development before the extension of the emergency access occurs down Tripp Hollow Road would allow the two activities for which permits were granted for actual activity in the wetlands, the 456 sq. ft. of filling and the construction of the timber bridge across the wetlands to gain access out to Trip Hollow Road. Phase 4 would be the development in the south westerly portion of the property.

A letter dated June 4, 2018 from Normand Thibeault, Jr., P.E. was submitted. The original plans were prepared by Provost and Rovero, David Held was the engineer on the project. Since then Greg Glaude who was the primary contact for Meehan Builders is now part of Killingly Engineering. Killingly Engineering has done the rephasing of the project.

Attorney Heller states that there is no activity proposed that was not part of the original plan as a result of the rephasing. There are no dependency subsequent wetlands activities that would be required in prior cases of the plan. As a result of that review, they found it necessary to make one revision which will be submitted. They need to incorporate a section of Hennessey Place, 200-feet and a portion of lot 26 into Phase 1 of the project. All of the activities which were originally permitted by IWWC can be conducted, and that they are not impacted by the rephasing. There is no activity occurring in any subsequent phases of the development that is required to be constructed in order to accommodate the phases of the development.

Chairman Arends asked for clarification of the permit extension, the 9 years that the State granted starts when? Attorney Heller states that it starts when the permit is issued. The permit that was issued in February 2011 extended the initial permit. Mr. Arends comments that the original permit was 2006. In 2011 an extension was granted for 5 years. The State said the extension is granted for 9 years from the end of the 5 years. Attorney Heller stated that this is unclear. Attorney Heller has taken the position that it only extends it from the date of the permit; the date of the permit was February 2011 rather than May of 2011 which would have been the terminus of the first 5 years.

Jim Paquin discusses with Attorney Heller the date of initial issuance and extension date of the permit. Attorney Heller states the permit is good until February 2020. Discussion ensued.

Demian Sorrentino asked Ms. Fraenkel if the Town's legal counsel agrees with Attorney Heller's interpretation. Ms. Fraenkel stated that Attorney Alter did not disagree with Attorney Heller. Chairman Arends asked when the wetlands were last flagged. Attorney Heller stated in 2006. Demian Sorrentino suggests having the wetlands flags rehung so the contractor knows where the resources are. Attorney Heller agrees.

Ms. Fraenkel asked the Commission what is the terminal date of the application? Demian Sorrentino commented that it is May 8, 2016, the permit is extended to May 8, 2020 in accordance with Statute 22a-42a. Ms. Fraenkel asks the Commission to request an agreement that the wetlands flagging be placed before any activity occurs. Attorney Heller suggests in any phase in which any activity occurs.

A motion was made by Demian Sorrentino that the Commission finds the proposed rephrasing of the Village in Woods subdivision is a minor modification and hereby approved. Jim Paquin seconds this motion. No discussion held. All in favor. The motion passes unanimously.

2. DR18-004 Linda Mark, Applicant/Donald Dubois, Forester; 60 Old Kimball Road, Map 6, Lot 5, Request for Ruling as of Right for Timber Harvest.

Don Dubois represents application DR18-004 The location is 30 acres +/- at the end of Old Kimball Road on the north side. There are wetlands on the periphery and north boundary. There will be no tree removal in the wetlands, no stream crossings requested. The amount of the forest products to be harvested are 73,201 board feet with 140 cords.

This is an upland application affecting about 30 acres. This is a salvage thinning about 80 to 90% mortality, mostly oak, starting August 1st. The skid roads are all in place with a nice stable landing area. The applicant is looking for a jurisdictional ruling. Ms. Fraenkel walked the site. There is a running watercourse in the northeast side corner. Ms. Fraenkel did not see any marking of trees east to the watercourse. Ms. Fraenkel asked Mr. Dubois if he is working up to it, not crossing it. Mr. Dubois stated this is correct.

Demian Sorrentino asked Mr. Dubois how they know what the boundary lines are. Mr. Dubois commented they use the NECCOG mapping and then metes and bounds.

A motion was made by Demian Sorrentino to approve request DR 18-004 for a ruling of the Brooklyn IWWC as a use as of right pursuant to Inland Wetlands Regulations Section 4.1.1 for a timber harvest at 60 Old Kimball Road Map 5 Lot 5, property of Linda Mark. Proposal is for harvest of 140 cords and 73,201 board feet on a parcel of 34 acres. Removal is a salvage thinning to remove dead dying timber impacted by gypsy moth defoliation by selective cut, according to an application submitted by Donald Dubois, Forester, estimated to begin on 8/1/18. No wetlands crossing is proposed. Jim Paquin seconds this motion. No discussion held. All in motion. The motion passes unanimously.

3. 061218A VBL Properties, Beecher Road, Map 22, Lot 38-1, 2.5 acres; Single family home, septic system, well, driveway and minor grading. All work being done in the upland review area.

Paul Archer, Archer Surveying represents application 061218A. The property location is the corner of Beecher Road and Route 169 which is entitled to a free split, this being the first split. The wetlands are flagged. This is basically a sand bank. There will be a non-engineered septic system. The applicant is looking for acceptance (receipt) of the application this evening and will present at next month's meeting. Ms. Fraenkel asked if there is a map recorded of the free split. Mr. Archer will contact Jim Brennan and look into this.

A motion was made by Demian Sorrentino to receive application 061218A of VHL Properties, Beecher Road, Map 22, Lot 38-1, and table to the July 10, 2018 meeting for consideration. Richard Oliverson seconds this motion. No discussion held. All in favor. The motion passes unanimously.

Communications:

1. Budget Update: Commission members reviewed the budget.

2. Wetlands Agent Monthly Report:

- Ms. Fraenkel commented that Keith Hoyt will be appearing before the Commission at the July meeting with regards to removal of a stone wall in the wetlands.
- Ms. Fraenkel reported that the Jones property located on Route 169 (Pomfret Road) is approximately 95% cleaned up.

Public Commentary:

Mr. Sorrentino asks if two things can be put in motion:

- A bylaw modification to reduce the number of regular members on the Commission.
- Change the Wetlands regulations to not track per PZC gravel excavations and change it back to 5 years.

Adjourn: A motion was made by Demian Sorrentino to adjourn the meeting at 7:47 p.m. Richard Oliverson seconds this motion. No discussion held. All in favor. The motion passes unanimously.

Audrey Cross-Lussier
Recording Secretary