

Brooklyn Inland Wetlands and Watercourses Commission

Special Meeting Minutes

Tuesday, September 12, 2023

Zoom and In-Person Meeting

Community Center

31 Tiffany Street Upper Level

Call to Order: 6:02 pm

Roll Call: Richard Oliverson; Adam Brindamour; Adam Tucker; Jason Burgess.

James Paquin (arrived @ 6:22pm); Janet Booth (arrived @ 6:44pm).

Absent: Demian Sorrentino.

Staff Present: First Selectman, Austin Tanner; WEO, Margaret Washburn; Recording Secretary, Terry Mahanna.

Attendance: Attending in person: Norm Thibeault, Killingly Engineering; Paul Archer, Archer Surveying; Attorney Ernest Cotnoir; Andrew Kausch, Brooklyn resident; Jake Kausch, Brooklyn resident; Jackie Igliozi, Brooklyn resident; one additional attendee in audience.

Attending via Zoom: Ryan Kelleher; Sharon Loughlin; Sharon Hawes; two anonymous participants.

Seating of Alternates: None.

Public Commentary: None.

Approval of Minutes:

Site Walk Minutes August 16, 2023 – APPROVED 4-0-0.

Special Meeting Minutes August 8, 2023 - APPROVED 4-0-0.

Public Hearings:

1. IWWC 23-006: Ryan Kelleher. 404 Wolf Den Road, Map 18, Lot 22, RA Zone; Improvement of an existing gravel driveway through a wetland to construct a single-family home on 41 acres of land.

Norm Thibeault, as representative of this project, presented a copy of the certified mailing receipts as well as a copy of the posted notice for the abutters. He provided an overview of the property for those who did not attend the site walk: the proposed project has approximately 4,070 sf of wetlands impacts with a good portion of the existing driveway qualifying as wetlands. The previously-proposed use had been a 12-lot subdivision with a 24'- wide driveway, whereas this project is for a single-family home with 1/3rd the fill of that previously-proposed. Over the years, some of the gravelly soil on the driveway has developed wetlands characteristics, and the existing 15" cross-culverts have most likely become clogged with sediment. To alleviate this issue, Mr. Thibeault proposed replacing the existing culverts with open-bottomed 2' x 4' box culverts, which will have more capacity and allow for a natural stream bottom environment for wildlife (fish, amphibians). To compensate for additional volume, a compensatory flood storage area is included in this proposal. This proposal was reviewed by Syl Pauley, Regional Engineer, and determined to withstand a potential 100-year storm.

Adam Brindamour asked if just a portion of the driveway has developed wetlands characteristics over the years. Mr. Thibeault responded - yes.

Brooklyn resident Jackie Igliozi (residing at 8 Woodward Rd) inquired as follows:

- Is the driveway still gravel? Mr. Thibeault responded – yes.
- Can I see the 1934 photos of driveway? Mr. Thibeault provided.
- Has the floodplain changed? Mr. Thibeault indicated that FEMA has only changed the areas where a flood study was done. The map he displayed has not changed.
- Will staked hay bales only be in place during construction? Mr. Thibeault responded – yes.
- Will there be ongoing maintenance of driveway? Per Mr. Thibeault, maintenance is ongoing and would likely include an occasional top dressing.
- Impact of future development? Mr. Thibeault responded that any future development would need to be re-permitted/approved. This project is for a single-family home.
- Study/impact on wildlife? Mr. Thibeault indicated that no study has been done, although the Army Corps of Engineers prefers a natural stream bottom. He doubts any fish are there, the concern is mainly frogs and salamanders. Since the pipes are currently clogged, box culverts will improve the natural flow.
- Confirmation of a paved driveway on the slope: Mr. Thibeault confirmed and added that drainage from the paved portion will be collected in a swale and the runoff will be recharged into the ground in a basin at the toe of the slope.
- What will happen to snow? Mr. Thibeault indicated it will go out to the perimeter of the driveway and melt into the wetlands. A paved apron at the point in which the road transitions to gravel is required by the Town.

Brooklyn resident Andrew Kausch asked how many open crossings and does it add to the height? Mr. Thibeault responded – two and yes, pipes are adding about 6-8” to the driveway.

Mr. Thibeault added: a portion of wetlands south of the driveway had at one time been mined, possibly for peat moss.

Mr. Kausch indicated he is in favor of this project and wishes them luck.

James Paquin (arrived @ 6:22pm) inquired as to the site walk. Margaret Washburn confirmed she and Janet Booth met Mr. Thibeault at the site, and that Janet Booth also attended the IWWC site walk.

A **motion** was made at 6:25pm by Adam Brindamour to close the Public Hearing. Jason Burgess seconded. The motion carried unanimously by vote (5-0-0).

Old Business:

1. IWWC 23-006 Ryan Kelleher. 404 Wolf Den Road, Map 18, Lot 22, RA Zone; Improvement of an existing gravel driveway through a wetland to construct a single-family home on 41 acres of land.

Adam Brindamour indicated that those who went on the site walk saw an improvement, although it is a tight spot to work in. Jason Burgess agreed and recommended requiring a driveway as-built plan.

A **motion** was made by Mr. Brindamour and seconded by Adam Tucker to approve this application with standard and special conditions as follows:

- The applicant shall notify the wetlands agent at 860-779-3411 ext. 31 to schedule a pre-construction conference a minimum of 5 business days prior to the start of construction.
- Sediment controls are to be installed and the wetlands agent is to be notified at 860-779-3411 ext. 31 for an inspection before any other work can begin.
- Driveway construction work shall be done under low seasonal groundwater conditions.
- The contractor shall consult a weather forecast prior to starting driveway construction work. If any storms are predicted in the following 24-hour period, driveway construction shall be delayed.
- An as-built plan of the driveway is to be provided to the wetland's agent upon completion.

The **motion** carried unanimously by vote (5-0-0).

2. IWWC 23-007 Tripp Hollow Investments LLC, Tripp Hollow Road, Map 14, Lot 10-1 RA Zone; Proposed single-family house, well, septic system and site grading in the upland review area on a subdivision lot created in 2004.

Norm Thibeault, as representative of the project, indicated the site has been re-flagged by Joe Theroux (flags 1-40 are new, A-series represent previous flags) although there were not many changes. This project has a slightly smaller footprint than the previously proposed, with the footing drain being 15'-20' further from the wetlands resulting in minimized clearing in the back.

Margaret Washburn stated that NDDH has reviewed and approved the revised plan. Mr. Thibeault confirmed this. Mr. Thibeault added that soils for the septic were good, and that there is a lower-than-average water table.

A **motion** to approve was made by James Paquin and seconded by Jason Burgess. The motion carried unanimously by vote (5-0-0).

3. 253 Wolf Den Road, Map 17, Lot 32-3 – Janessa Choquette. Remediation work update.

Chairman Oliverson stated that this item should have been listed under Other Business.

Margaret Washburn indicated she did an inspection on 9/11/23, took photos and closed the order to correct wetlands violations.

4. 071321A A. Kausch & Sons, Pomfret Landing Road/Church Street, Map 37, Lot 17 and Map 37 Lot 20 and 21; Wetlands crossing for driveway, 2 residential homes, septic system, well, minor grading. **Show cause hearing for wetlands violation.**

Attorney Ernest Cotnoir introduced himself as representative for A. Kausch & Sons, and asked Ms. Washburn to present the Order.

Margaret Washburn handed out a packet including: the order to Mr. Kausch, notes from her 7/31 inspection, email correspondence between herself and Attorney Cotnoir, photographs provided by Jake Kausch from 8/31/23 showing millings cleared from the pipe and a tree that was cut down by Eversource.

Ms. Washburn also provided the following introduction:

Janet Booth, Adam Brindamour and Ms. Washburn had scheduled an inspection on 7/31/23 with Paul Archer on the abutting lot to the south. While they were there, they observed that millings had been used to resurface the gravel driveway. The driveway was shown as gravel on the approved plans. Some millings were deposited in the wetlands at both ends of the westernmost wetlands crossing culvert. While they were there Jake Kausch joined them. Jake Kausch agreed to remove the millings from the wetlands at both ends of the westernmost wetlands crossing culvert. At the 8/8/23 IWWC Special Meeting, the commission directed Ms. Washburn to issue an order and hold a Show Cause Hearing, which she did.

Jake Kausch indicated he took out about 5 shovels of millings that were in the wetlands and threw them on the driveway. He intends to continue to maintain it.

James Paquin asked Jake Kausch to confirm that he owns the driveway (which is shared), lives in the house, has a CO and the deed is in his name. Jake Kausch responded yes to all.

Ms. Washburn indicated that after the July meeting she asked the Town Clerk who owns 411 Church Street, and the response was that it was transferred in a deed from A. Kausch & Sons to A. Kausch & Sons. Jake Kausch added that it is now in the name of Andrew J. Kausch which was done over a year ago. Ms. Washburn indicated that she asked the Town Clerk on 8/14/23 and that the properties had not been transferred except to do the split in February of 2023. J. Kausch will check into this as there might be confusion since he holds the same name as his father.

Mr. Paquin indicated that he did not consider millings to be filling in the upland review area. He said that even if a small number of millings went into the wetlands, he considered the work to be routine maintenance. He said that millings will not erode into the wetlands as much as gravel would. He suggested the commission lift the cease-and-desist order and apologize to Mr. Kausch. Ms. Washburn clarified that no cease-and-desist order was issued. At the last IWWC meeting, when Mr. Paquin was absent, the commission felt more fill had come in and that historically, as with Bunny Drive, a permit would have been required. Mr. Paquin stated he feels this is altogether different from Bunny Drive and that Mr. Kausch's actions should be considered maintaining and improving his driveway.

Attorney Cotnoir indicated the order was confusing because the order referenced subsequent as-built plans when there had already been a permit that had been complied with for months. Mr. Kausch thought he was doing maintenance.

Richard Oliverson confirmed that the commission had directed Ms. Washburn to send the notice. He stated he understood the owner's position and that the bigger issue was that millings had spilled over the side and into the wetlands, which is what the commission wanted addressed. Also at issue was that Jake Kausch verbally told Ms. Washburn he would take care of it, and it had not happened. Mr. Oliverson apologized for the confusion and thanked Mr. Kausch for tending to it.

Jake Kausch added that he read the meeting minutes from the previous IWWC meeting and saw that he would be receiving the letter. He checked his mail daily, but never received the letter. Mr. Oliverson and Ms. Washburn indicated that the letter would have been sent to the owner, and therefore most likely went to his father or his business, as the owner of record.

Ms. Washburn added that the plan which had been approved was for a gravel driveway, and that Mr. Kausch deviated from the plan when adding the millings. She indicated the driveway is much higher now. Attorney Cotnoir reiterated the confusion with the order referencing the need for as-builts versus not saying work was done without a permit. Mr. Oliverson apologized for the confusion and stated that the commission has gotten to the point that they needed.

Andrew Kausch added that the work done was an improvement to the driveway and it now looks beautiful.

Mr. Paquin added that he did not understand how we got to this point. Mr. Kausch said that he has put more work into this property than other nearby owners and their properties and feels there is a double standard. Mr. Paquin questioned the commission's decision to send a letter and stated he is embarrassed.

Ms. Washburn stated the commission's action tonight should be one of the following: to uphold the order, modify the order or nullify the order.

Mr. Jake Kausch reiterated the amount of millings that existed. Mr. Oliverson stated he understood it might not have been as much as they thought. Mr. Kausch stated he understood the commission's perspective and will pay a fine or do whatever is needed. Ms. Washburn and Mr. Oliverson stated there is no fine.

Janet Booth added that she is new to the commission and new to the project. She had attended the site walk. She said that the driveway is beautiful. Her understanding had been that millings were used in lieu of gravel. She stated she was not sure how this should have been handled but it might have been inadvertent.

Mr. Andrew Kausch reiterated the benefits of the work they had done and that it is standard maintenance to top-dress a driveway. He stated these fixes should not require a permit. Ms. Washburn stated that is one way to look at it, but the plans called for a gravel driveway and its not a gravel driveway.

Attorney Cotnoir stated he believed the commission now knew the situation and on behalf of the respondent felt the back and forth amongst the commission and respondent was not appropriate. He stated the order called for the removal of millings and that has been done.

A **motion** was made by Mr. Paquin and seconded by Adam Tucker to lift the order and apologize. Janet Booth opposed the motion as it relates to the need to apologize. The motion carried by a majority vote (5-1-0).

New Business:

1. IWWC 23-010 A. Kausch & Sons, Church Street, Map 37, Lot 21, RA Zone; Driveway with wetlands crossing; 2,100 sq ft of wetlands alterations for single-family house, septic system, well and grading in the upland review area.

Paul Archer represented the project. He stated, in reference to the previously denied application, that he had forgotten to post the sign required for the public hearing and to notify abutters of the public hearing. He does not understand the need for a new application for the same project.

Adam Brindamour reminded Mr. Archer that the previous application was received at the July IWWC meeting. Mr. Archer had agreed at that meeting to meet some of the commission members on July 31st to walk the

property. Mr. Archer did not show up. The day the public hearing was to be held the commission discovered the sign required for the public hearing was not posted, and that the abutters had not been notified of the public hearing. Mr. Brindamour stated the commission had tried to expedite the project, but it did not work because of the applicant's failure to take these steps.

Mr. Archer disagreed as there was no scheduled site walk due to a lack of quorum. He understood that the public hearing would not be held, but he stated it has not been past practice by the board to deny an application and restart the timeline. He felt the commission cost the applicant more money. Mr. Brindamour disagreed and responded that Mr. Archer cost the applicant more money.

Richard Oliverson asked if all Syl Pauley's comments were addressed. Mr. Archer stated he believed so.

Margaret Washburn indicated she has not yet reviewed the new plans but would like to be able to differentiate (by crosshatching) where the proposed fill would be placed in the wetlands. She also noted some of the past problems that has caused delays, such as wetlands flags not being in place – these should ideally be hung when the application is submitted so that she or the commission members can do a site walk at any time.

Jake Kausch asked if every project requires flags to be hung. Mr. Oliverson responded – yes, flags are very important.

Andrew Kausch added that he appreciates the efforts by the commission members and knows they are all volunteer. He indicated that about 80% of the flags are still there.

Ms. Washburn agreed to send Mr. Archer her comments.

Jason Burgess stated that a site walk should be scheduled. The site walk was scheduled for Friday, September 22nd at 5:00 p.m. Paul Archer stated that if any commission members cannot attend the site walk, they can call him, and he will meet them at the site on another day.

Ms. Washburn stated that Mr. Archer still had not replaced the missing wetlands flags. She asked Mr. Archer to replace them by September 22nd, and to flag the centerline on the driveway.

A **motion** was made by Adam Brindamour to schedule a public hearing for Tuesday, October 10th, seconded by James Paquin. The motion carried by unanimous vote (6-0-0).

Other Business: None

Communications:

1. Wetlands Agent Monthly Report.
2. Budget Update.

Public Commentary: None

Adjourn: Motion to adjourn was made at 7:19 p.m. by James Paquin and seconded by Jason Burgess. Motion carried unanimously by vote (6-0-0).

IWWC 9-13-23

Submitted By:
Terry Mahanna
Recording Secretary