



**Meeting Minutes - Approved 10-13-16**  
Regular Meeting  
Canton Inland Wetlands and Watercourses Agency  
Thursday, September 8, 2016 at 7:00 pm  
Library Community Center, Room F  
40 Dyer Avenue, Canton, CT

**CALL TO ORDER** – The Regular Meeting of September 8, 2016 was called to order at 7:03 p.m.

**ROLL CALL** – Chairman David Shepard, Al Bombassei, Eric Henry (Alternate), David Rosenfeld (Alternate), David Sinish and Rich Van de Bogart

**ABSENT** – Robert Bahre

**ALSO PRESENT** – Assistant Town Planner Emily Anyzeski and Recording Secretary Jennifer Scott

E. Henry was seated as a Regular Member by D. Shepard.

A quorum of the agency is present.

**PUBLIC COMMENT NOT RELATED TO AGENDA ITEM** – None

**OLD BUSINESS** – None

**NEW BUSINESS**

1. **File #09-16-1143; 81 West Simsbury Road; Assessor's Map 8; Parcel 5630081; Zone R-3; Show Cause Hearing for Cease and Desist of all regulated activities on site; Iwona Kasica, owner**

Mr. Shepard disclosed that he received a phone call from Town staff regarding this item and was aware of some of the details before this evening's meeting. Iwona Kasica, owner and her husband Edward Kasica were in attendance for the discussion of this case. The members were presented with several photographs of the site; some were captured by Ms. Anyzeski and others by the property owner. Ms. Anyzeski provided a quick history of the case for the members. She said that she was notified that there had been significant clearing at the property in question. She visited the site with the Town Building Inspector and confirmed that considerable clearing had taken place on the sides and at the rear of the property. Ms. Anyzeski presented aerials to the members which show a large swatch of state designated wetlands at the rear of the property. She added that the location of the house is within the 100' Upland Review Area surrounding the wetlands boundary. Ms. Anyzeski stated that from her observation, it appeared that clearing and filling had occurred in both the wetlands and Upland Review Area. Because the area is protected, these activities are regulated and require approval from herself and the IWWA.

Mr. Shepard informed the group that the basis of a Cease and Desist order is if work has been done that appears to violate wetlands regulations and no permit has been issued or if work is done in violation of a permit. Mr. Shepard said that there is probable cause in this case that a violation has occurred as tree cutting and filling are both regulated activities in the wetlands and URA. He asked

Ms. Kasica for her input on the situation. Ms. Kasica advised that they had taken out some dead trees around her home and others were removed at the request of her homeowner's insurance company. She said that she was not aware her property was in a wetlands area or that she had done anything wrong until she received the violation letter. Ms. Kasica stated that they cleared most of the property on their own with some help from family. Mr. Kasica added that friends of theirs did come out with a boom truck to help remove some of the bigger trees in the front. Mr. Shepard commented that there is no excuse for a professional to not have ensured regulatory compliance before performing any outdoor work of this kind.

Mr. Shepard explained that wetlands are defined as a poorly drained or very poorly drained soil type. He continued saying that the Wetlands and Watercourses Act was passed because the legislature made the determination that wetlands and watercourses are a public resource. Doing work in close proximity to them can put loose soils, considered to be a type of pollution, into brooks, streams, etc. He said that there are certain ways to perform work to protect the public resource. He explained that tree cutting and changing the grade of the ground by filling can redirect water from the course it would naturally move. This could cause fairly significant change or disruption to a public resource. He said that he sought to educate the owners on the potential impacts of the work they have already done and the work they plan to do down the road. He said that he doesn't disagree that there may have been a need to take the trees down, but they should have filed an application and gotten approval from the Town before doing so. He stated that the site is now what they consider "open" because trees that were once there drawing water are gone, there is no grass growing to hold the soil, and the grade has been changed making them uncertain where water will go. Mr. Shepard said that an order in this case would not have the intention of being punitive. He said that there is an "open" site that is sloped and something has to be done to tighten it up.

After Mr. Shepard asked for the other members' thoughts, Mr. Sinish said he is very dismayed by the activities performed on the property. While he understands the homeowner's ignorance to the laws, he believes a professional should have been aware. He said that with an "open" site, any precipitation could cause erosion. The members were in agreement that something has to be done to protect the site so that the soil does not runoff into a watercourse or a roadway. They determined that the owner must submit an application with the Town for the work they have completed already. They also discussed different possibilities for how to stabilize the site including seeding and/or hydro seeding for grass and placing hay bales or silt fencing as a temporary sediment control device.

Mr. Kasica provided some additional details about the work that was performed at the property. He stated that they leveled and raked the front so they could create a decent driveway and yard. He discussed the types of trees that were removed including several large trees on the sides of the house that were safety concerns, some large pines in the front and one large ash tree in the back. He explained that the fall of the land is from east to west with it being relatively steep along the back towards the wetlands. The group discussed the current driveway at the property. Mr. Kasica said that there is a cut in the road and an apron but there is no gravel. He said that it is basically soil compacted down by a car. It being a state road, Ms. Anyzeski recommended that the owner's inquire if they would need a driveway bond before moving forward with constructing a driveway.

Mr. Shepard said that the members are trying to get an understanding of the property so they can ask the homeowner to take reasonable action to stabilize it. Mr. Kasica advised the members of a sloped area in the back yard where they had placed some large boulders in order to prevent erosion. He said they would like to add more boulders in order to further secure the land. Mr. Shepard explained that this would essentially be leveling the land which is a regulated activity in the wetlands and URA. He advised that the agency is especially cautious of any work completed in such close proximity to the wetland boundary. He proposed seeding the area instead while their application is reviewed.

Mr. Shepard explained that the IWWA could issue a Cease and Correct order in this case that would demand corrective measures be taken to stabilize the site now while the owner's full application for the work that has been done and the work sought to be done is pending. The group discussed which areas of the yard are most at risk. Mr. and Ms. Kasica informed the members of the steps they've

already taken to try and prevent erosion on the property including hay bales, wood chips and using large boulders as fill. Ms. Kasica added that they left the roots to the large pines they took down in the ground. The members discussed some options to reasonably stabilize the site within the next 30 days before winter and the potential for snow approaches. They discussed the benefits and drawbacks of hiring a contractor to hydro seed the property. While it would get a lot of grass up quickly to hold the yard together, there is the possibility of contractor delays. In addition, the owner has already purchased a specific type of grass seed for the front yard that she had intended on planting soon anyway. Mr. Kasica stated that he has experience planting grass and he knows how to get it growing quickly. The homeowner would like to do the seeding and they believe it would be done faster and have a better result than hydro seeding. The group discussed the possibility of wood chipping the whole front yard, installing additional hay bales in the back yard, installing a perimeter of hay bales, putting up silt fencing, and seeding the back yard. Ms. Kasica expressed concern that grass may not grow in the back because of the rock filled terrain.

The members noted that they can already see channeling and erosion starting to occur on the property from the photographs presented. They discussed where seeding in the back would need to occur and where exactly additional hay bales should be placed. Once the hay bales are placed, Ms. Anyzeski can go out and verify they are in the right spot and determine if they should be staked. It was recommended that the homeowner come up with a solid plan before completing their application for future improvements and consider hiring professionals to assist them so that the work is done properly.

**MOTION:** D. Shepard moved that for File#09-16-1143; 81 West Simsbury Road; Assessor's Map 8; Parcel 5630081; Zone R-3; Show Cause Hearing for Cease and Desist of all regulated activities on site; Iwona Kasica, owner be continued and modified in the following ways:

1. Owner is directed to have the front yard seeded for grass within 72 hours of this meeting.
2. Owner is directed in the back yard to place a line of hay bales at the toe of the slope that was created from the terrace.
3. Owner is directed to have the back yard seeded for grass within 72 hours after the expiration of the deadline to seed the front yard, or within 6 days of this meeting.
4. Owner is directed to file an application with the Town for the regulated work already completed and for any additional regulated work they intend on completing moving forward.
5. Upon placing the hay bales, Owner is directed to notify the Land Use office for inspection the same day.

D. Sinish seconded the motion. The motion passed unanimously, 5-0-0.

## **OTHER BUSINESS**

### **1. Approve Minutes of July 14, 2016 Regular Meeting**

**MOTION:** D. Shepard moved to approve the minutes of the July 14, 2016 Regular Meeting as amended. E. Henry seconded the motion. The motion passed, 3-0-2 with R. Van de Bogart and D. Sinish abstaining.

### **2. Applications Received After Agenda Posted - None**

### **3. Authorized Agent**

**File #08-16-1142AA; 60 Secret Lake Rd; Assessor's Map 36; Parcel 4670060; Zone R-1; Construction of a deck in the front yard of a single family home within the Upland Review Area; Jeff Dunbar, applicant/owner** – Ms. Anyzeski reported that she received an application through the Zoning Department for the construction of a deck at 60 Secret Lake Road. In her role as Zoning Enforcement Officer, she pulled the map for the property and noticed that there are wetlands located about 80' from the edge of the proposed deck to the rear of the site. She said that the deck

will be about 15-18' long and within the Upland Review Area. The front yard where the deck will be constructed is flat and down hill from the URA and the property slopes upwards in the back yard. She said it was her determination that as long as the materials and equipment are stored outside the URA, she did not consider the construction of the deck to be a significant threat to the area. The members were presented with photos of the property taken by Ms. Anyzeski on her recent visit to the site.

4. **Any Other Recent Enforcement Issues** – Ms. Anyzeski reported that she had just learned about a large retaining wall that was installed at a property on West Simsbury Road. She said she has not had an opportunity yet to visit the site, but believes the address is 360 West Simsbury Road. She stated that she had heard from a member of the PZC that the wall is approximately 9' or 10' tall which could mean possible building, zoning, and wetlands issues. She said that she believes the Building Department would be the first to take enforcement action but wanted to inform the IWWA members that this may be an item that comes before them as well.

Mr. Sinish requested an update on an item from their July meeting about a complaint that was received at DEEP stating that a generator had been running non-stop at 32 Cherry Brook Road. The complainant had concerns that water from the home was being pumped into the Cherry Brook. Ms. Anyzeski said that she called the property owner who stated that they were having some electrical issues at their home which was the reason that they had the generator running for days. Ms. Anyzeski reported that the Building Inspector went to the site and confirmed the electrical issues and no other complaints have been received since then. She said that she believes this matter has been fully resolved.

Mr. Henry requested an update on the application at 115 Wright Road to replace an existing driveway culvert. Ms. Anyzeski said that one of the agency members was contracted to perform the work and he ensured that all of the conditions to the approval were properly met in a very timely manner.

## 5. Staff Report

- a) **Procedural Safety Guidelines** – Ms. Anyzeski said that she will include this as an agenda item as a reminder to the members to bring forth any suggestions for editing the regulations. Mr. Shepard said his inclination is not to hold a public hearing to change the regulations for just one item. His preference would be to wait until they have multiple changes being requested.
- b) **Farm Roads Non-Exemption** – Ms. Anyzeski reported that the Supreme Court of CT has made a decision that farm roads are no longer exempt from the wetlands procedures. Previously, if a farm road was being used strictly for agricultural purposes you would not necessarily need a wetlands permit for it. She said that this is no longer the case to the apparent disappointment of many people.
- c) **Army Corps General Permit Revisions** – Ms. Anyzeski said that the US Army Corps of Engineers replaced and revised the General Permit in July 2016. It will be reissued for 5 years effective in 2021. She said she does not believe much of it is applicable to Canton but wanted to make the members aware.
- d) **Bond release at 690-708 Cherry Brook Road** – Ms. Anyzeski reported that they have received a request from the property owner of 708 Cherry Brook Road, Jerry Miller, to release a subdivision bond from 1993. She said that they are finding a lot of discrepancies with his request. Mr. Miller is stating that it is a wetlands agency bond from 1993 while the Town's files reference a Planning Commission bond from 1999. She said that they need clarification from Mr. Miller because what he is requesting does not appear to exist. In the event Mr. Miller has some documentation that the Town does not have, this matter may come before the IWWA. If it does, the agency would need to approve the release of the bond totaling approximately \$29,000. She said that her understanding is that the bond is being requested but not all of the conditions have been met.

- e) **Chairman Signature for Statewide Inland Wetlands and Watercourses Activity Reporting Requirements** – Ms. Anyzeski explained that because of an error made in the Land Use office, the proper forms that supplement the wetlands applications have not been being submitted to DEEP. As a result, DEEP has requested that the Chairman provide his signature as proof that the IWWA has in fact processed applications in the past year.

Mr. Shepard asked if there are any updates regarding the latest farm road controversy. Ms. Anyzeski replied that the Board of Selectmen agenda will be posted tomorrow that should answer a lot of questions.

Mr. Shepard reported that a meeting took place on Wednesday, September 7<sup>th</sup> where members from all of the various Town boards come together. He said that he was not able to attend but that his understanding was that the purpose of the meeting was for reporting compliance with the Plan of Conservation and Development. He said that the POCD does not particularly apply to the IWWA. Ms. Anyzeski said that she did attend the meeting and provided a quick overview of what was discussed. She said if anyone is interested in the outcome, the recording of the meeting should be up on the Town's website.

**ADJOURNMENT:**

**MOTION:** D. Shepard moved to adjourn the Regular Meeting at 9:15 pm. D. Sinish seconded the motion. The motion passed unanimously, 5-0-0.

Respectfully Submitted,  
Jennifer Scott, Recording Secretary