



Town of Watertown Connecticut

Planning and Zoning, Zoning Board of Appeals,
Conservation Commission/Inland Wetland Agency

Watertown Municipal Center

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CONSERVATION COMMISSION/ INLAND WETLAND AGENCY

Regular Meeting Agenda

February 9, 2023

6:30 PM

Place: Watertown Town Hall, Town Council Chambers
61 Echo Lake Road
Watertown, Connecticut

1. **Call Meeting to Order**

Craig Palmer called the meeting to order at 6:32pm

Members Present: Craig Palmer, Chairman
Tom Murphy, Vice-Chairman
Joe Polletta
Luigi Cavallo, Jr.
Pierre Moran
Ed Norton
Michael Jedd, Jr.

Members Absent: Charles Beliveau
George Touponse
Edwin Dalton, Secretary

Others Present: Moosa Rafey, Wetland Enforcement Officer
Roseann D'Amelio, Secretary
Paul Bunevich, Town Engineer

Pierre Moran was seated as Pro-tem Secretary

Ed Norton was seated for Ned Dalton

Michael Jedd, Jr. was seated for George Touponse

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3. Election of Officers

A. Chairperson

Text of Motion: Joe Polletta nominated Craig Palmer as Chairperson
Motion Made by: Joe Polletta
Seconded by: Tom Murphy
There were no other nominations
All in Favor

B. Vice-Chairperson

Text of Motion: Joe Polletta nominated Tom Murphy as Vice-Chairperson
Motion Made by: Joe Polletta
Seconded by: Luigi Cavallo, Jr.
There were no other nominations
All in Favor

C. Secretary

Text of Motion: Joe Polletta nominated Ned Dalton as Secretary
Motion Made by: Joe Polletta
Seconded by: Luigi Cavallo, Jr.
There were no other nominations
All in Favor

Moosa Rafey: For the record, I received an email from Ned Dalton that he is interested to be the Secretary for the Commission.

4. Public Participation

5. Action on Minutes

A. Regular Meeting January 12, 2023

Ed Norton motioned to approved the Regular meeting minutes of January 12, 2023 and was seconded by Tom Murphy – All in Favor

6. Pending Applications

A. Application #2022-17 of Steiner, Inc. for subdivision of a 6.15-acre parcel of land into 4 residential building lots and construction of 4 single-family homes and

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associated onsite septic and drainage systems, and driveways located at the intersection of Lake Winnemauw Road and Sperry Road, Watertown, CT.

Moosa Rafey: At the last meeting the Commission directed me to draft a motion for this application and I did. I just want to mention for the record and for your information that I sent a copy of this draft motion to the town attorney for his review and comments. I also sent a copy to my supervisor, Mark Massoud, for his review and comments and I also sent a copy to Paul Bunevich, our town engineer. The only person who commented was Mr. Bunevich. There was only one correction on a word and I corrected that. I also sent a copy to the Chairman, and the Chairman said that it's exactly what the Commission wanted to have for their motion. I'll give you a copy of the draft motion and take some time to review it quietly. Take as much time as you need and then at that time the Secretary will read it into the record. In case you want to make any changes or any recommendations please feel free to do so. This is just a draft so you can add anything or change anything you want as long as it's within your jurisdiction

Luigi Cavallo, Jr.: The map that we got in our packet, are there any changes from the last meeting?

Moosa Rafey: No, that is alternate 2A and that's the latest revision that the applicant submitted to you

Craig Palmer: Are there any questions from the Commission on the draft motion? We've had 6 meetings, a third party review, a site walk, we've done our diligence here. Just remember our job is to protect the wetlands and conservation of the land.

Paul Bunevich: I have 2 minor but significant points. On sheet 3, 4th paragraph it says "regulate area" but it should be "regulated area"

Tom Murphy: In that same paragraph, it says "the Agency approves activities on Lot 1, 2 & 3 as shown on the site plan and deny proposed regulated activities. It should be denies. On the same page, first paragraph second sentence, it goes "Whereas the Agency is considering a feasible and prudent alternative which the applicants fail to consider" should we have "failed"?

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Pierre Moran: reads the motion into the record:

FINAL MOTION FOR APPROVAL

WHEREAS, THE WATERTOWN CONSERVATION COMMISSION / INLAND WETLAND AGENCY (The Agency) has received an application from Steiner, Inc. for subdivision of a 6.15-acre parcel of land into 4 residential building lots and construction of 4 single-family dwellings and associated driveways, onsite drainage systems and onsite septic systems as shown on a Site Development Plan titled “Lake Winnemaug Estates lake Winnemaug Road, Watertown, Connecticut Alternative #2A dated 06/24/2022 last revision date November 15, 2022 prepared by DiVesta Civil Engineering, LLC”.

WHEREAS, The Agency is a combined Conservation Commission and Wetland Commission;

WHEREAS, the Agency determined that the proposed activities as shown on the above-mentioned site plan constitute a significant activity per Section 2.1 of the Inland Wetland and Watercourses Regulations of the Town of Watertown (The Regulations);

WHEREAS, the Agency has evaluated the application according to the standards and criteria for a decision per Section 10.2 of the Regulations in carrying out the purposes and policies of Section 22(a)-26 to 22(a)-45 of the Connecticut General Statutes, including matters related to regulating, licensing and enforcing of the provisions thereof;

WHEREAS, the Agency has convened meetings and public hearings on August 11, 2022, September 8, 2022, October 13, 2022, November 17, 2022, December 8, 2022, January 12, 2023 and February 9, 2023;

WHEREAS, the Agency has held a site walk on October 8, 2022;

WHEREAS, the Agency has hired the Northwest Conservation District (NWCD) as an independent third party to review and comment on the application;

WHEREAS, the Agency has carefully considered all the evidence and testimony received at the duly called public hearings and meetings from applicant’s team, staff, NWCD and the public;

WHEREAS, the Agency recognizes that inland wetlands and watercourses of the State of Connecticut and the Town of Watertown are indispensable, irreplaceable and a fragile natural resource;

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WHEREAS, the Agency recognizes pursuant to Section 1.1 of The Regulations, “The preservation and protection of the wetland and watercourses from random, unnecessary, undesirable and unregulated uses disturbance or destruction is in the public interest and is essential to the health, wealth and safety of the citizens of the State”;

WHEREAS, the purpose of The Regulations is to protect the citizens of the State by making provisions for the protection of inland wetlands and watercourses by:

- (1) Minimizing their disturbance and pollution
- (2) Maintaining and improving water quality in accordance with the highest standards set forth by Federal, State or local authority
- (3) Preventing damage from erosion, turbidity or siltation
- (4) To deter and inhibit the danger of flooding and pollution
- (5) To protect and enhance the quality of wetlands, and watercourses for their conservation
- (6) To protect the State’s potable water supply and to provide an orderly process to balance the need for the economic growth of the Town and State use of its land with the need to protect the environment and ecology in order to guarantee to the people of the Town of Watertown and State, the safety of such natural resources for their benefit and enjoyment and for the benefit and enjoyment of generations yet unborn.

WHEREAS, proposed site plan shows almost entire Lot 4 and majority of Lot 3 are regulated area which include regulated inland wetlands and upland review areas;

WHEREAS, the Wetlands Assessment/Impact Analysis (Soil Reports) by JMM Wetland Consulting Services, LLC dated September 20, 2022 and November 9, 2022 indicate that the principal functions of the onsite wetlands are groundwater recharge/discharge, sediment/toxicant/pathogen retention, nutrient removal/retention/transformation and wildlife habitat;

WHEREAS, the Soil Reports indicate that “According to the reviewed site plans no direct wetland and/or watercourse impact is proposed at the subject site” but the field investigation by the applicant Soil Scientist and Cynthia Rabinowitz, Executive Director NWCD discovered additional wetland soils on the site where a sewer pipe crossing is proposed in the wetland;

WHEREAS, proposed site plan does not show the additional wetland area delineated on proposed Lot 4 by the Soil Scientist and NWCD;

WHEREAS, the soil reports and the site plan do not reflect the total area of onsite wetland to be disturbed by digging the trench and installing the sewer line in the wetland located on proposed Lot 4;

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WHEREAS, the Soil Reports indicate that indirect or secondary impacts to a wetland or watercourse can occur as a result of activities outside of wetlands or watercourses.

WHEREAS, the NWCD report dated December 28, 2022 indicates that on December 21, 2022 JMM and NWCD conducted a field investigation to confirm the accuracy of the delineated wetlands on Lot 4. Based on their observation of the site, they concluded that two of the test pits where the sewer line is proposed have poorly drained soils (wetland soils);

WHEREAS, the NWCD report dated December 28, 2022 and the Town Engineer memorandum dated January 5, 2023 indicate that the area for construction of the proposed house, driveway, patio, water quality swale/bio-swale and stone wall on proposed Lot 4 is severely restricted;

WHEREAS, the NWCD report and the Town Engineer memorandum indicates that future owner's activities such as dumping yard waste and brush and other related accessory uses and structures will have significant adverse impacts on the wetlands;

WHEREAS, there is very rich scientific literature on the importance and functions of vegetated buffers, which have been studied and proved that wide vegetated buffers provide multiple benefits to adjacent wetland and aquatic resources. Sheldon et al. (2005), Hruby (2013), Mayer et al. (2006), Castelle et al. (1992) McElfish et al. (2008), Adamus (2007) ;

WHEREAS, the applicant attempts to minimize the potential impacts the proposed project would have on the identified wetland by proposing 17'-25' wide buffer. Planner's Guide to Wetland Buffers for Local Governments states that "larger buffers will be more effective over the long run because buffers can become saturated with sediments and nutrients, gradually reducing their effectiveness, and because it is much harder to maintain the long-term integrity of small buffers." In addition, "wetland buffers maintain or serve directly as habitat for aquatic and wetland-dependent species that rely on complementary upland habitat for critical stages of their life history. Furthermore, the Town of Watertown's Regulations identifies both the "regulated area" and the "upland review area" as the land within 100 feet of any wetland or watercourse;

WHEREAS, the Agency is minimizing wetland impacts through the use of a 50 Ft wide vegetated buffer and conservation easement over and around the wetlands #1 and #2 on Lot 4 and a vegetated buffer and conservation easement over the wetland #2 and buffer areas on Lot 3 as shown on the site plan to protect the wetlands and enhance the disturbed wetlands and wildlife habitat;

WHEREAS, the Agency strongly believes given the topography of the 6.15-acre land, which drains entirely into wetlands on Lot 4 and Lot 3, washing of chemical fertilizers and other lawn chemicals into wetlands by surface runoff, potential for soil erosion and sedimentation deposits in the wetlands during and after construction, modifications commensurate with normal use of a

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residence which requires encroachment on the wetlands will have a significant adverse impact on the physical characteristics of the wetlands on the site;

WHEREAS, the Agency recognizes that the wetlands on this site have been disturbed by farming activities in the past but the Agency takes this opportunity to create a vegetated buffer around the wetlands to enhance the existing conditions and protect the wetlands from future disturbance;

WHEREAS, the Agency is considering a feasible and prudent alternative, which the applicants failed to consider, which has no adverse impact on the wetlands and allows the disturbed wetlands to be enhanced/restored and provide the functions and values as mentioned in the soil report and at the same time the applicants will have a reasonable use of their property;

NOW THEREFORE BE IT RESOLVED THAT The Agency approves proposed activities on Lot 1, Lot 2 and Lot 3 as shown on the site plan and denies proposed regulated activities within the wetland and 50 Ft of the upland review area for Lot 4 with the following conditions and modifications:

1. The permittee shall notify Wetlands Enforcement Officer, in writing at least three business days prior to the commencement of work onsite and upon its completion.
2. If the approved activities are not initiated on or before February 9, 2028, said activities shall cease and, if not previously revoked or specifically renewed or extended, this permit shall be invalid. Any request to renew or extend the expiration date of a permit should be filed in accordance with Section 11 of the Inland Wetlands and Watercourses Regulations of the Town of Watertown. Expired permits may not be renewed and the wetland agency may require a new application for regulated activities.
3. All work and all regulated activities conducted pursuant to this approval shall be consistent with the terms and conditions of this permit. Any structures, excavation, fill, obstructions, encroachment, or regulated activities not specifically identified and approved herein shall constitute a violation of this permit and may result in its modification, suspension, or revocation.
4. This permit is not transferable without the written consent of the Conservation Commission/ Inland Wetland Agency.
5. In evaluating this application, the wetland agency has relied on information provided by the applicant. If such information is subsequently proved to be false, incomplete, or misleading, this permit may be modified, suspended, or revoked and the permittee may be subject to any other remedies or penalties provided by law.

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6. The permittee shall employ management practices, consistent with the terms and conditions of this permit, to control storm water discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands or watercourses. **The permittee shall immediately inform the agency of any problems involving wetlands or watercourses that have developed in the course of, or that are caused by, the approved work.**
7. No equipment or material including without limitation fill, construction materials, or debris, shall be deposited, placed or stored in any wetland or watercourse on or off site unless specifically approved by this permit.
8. This permit is subject to and does not derogate any rights or powers of the Town of Watertown, conveys no property rights or exclusive privileges, and is subject to all public and private rights and to all applicable Federal, State and local laws. In conducting and maintaining any activities approved herein, the permittee may not cause pollution, impairment, or destruction of the inland wetlands and watercourses of the Town of Watertown.
9. If the activity approved by the inland wetlands permit also involves activity or a project that requires state or federal approval, TAHD, zoning or subdivision approval, special permit, variance, or special exception no work pursuant to the wetlands permit may begin until such approval is obtained.
10. The permittee shall maintain sediment and erosion controls at the site in such an operable condition as to prevent the pollution of wetlands and watercourses. Said controls are to be inspected by the permittee for deficiencies at least once per week and immediately after rains. The permittee shall correct any such deficiencies within 24 hours of said deficiency being found. The permittee shall maintain such control measures until all areas of disturbed soils at the site are stabilized.
11. Stone wall (3Ft W X 3Ft H) shall be constructed on the conservation easement limit on Lot 3 and proposed Lot 4 prior to the issuance of foundation permits/zoning permits for construction of the dwellings.
12. All conservation easement areas shall be field located and staked in the field by the applicant's surveyor/engineer. The conservation easement areas must be placarded on site. Where posting on trees is not possible, then the placards shall be posted on 4"X4" posts two feet in the ground and 6 feet high. Marker's locations shall be approved by the Wetlands Enforcement Officer prior to installation.

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13. A wetland performance bond shall be posted by Steiner Inc. The bond estimate for all site work shall be provided by the applicant to the Department of Public Works which shall include the following:

Soil erosion and sediment controls, construction of stone walls, seeding of the proposed wetland buffer areas with conservation/wildlife seed mix as proposed by the soil scientist and marking and installing placards on the limits of conservation easement areas.
14. There shall be no other onsite disturbance except what is proposed by the final plans and approved by the Commission within the limits of clearing and regulated areas.
15. A preconstruction meeting shall be held with Agency staff prior to any on site activity. A 24-hour name, address and telephone number must be provided by the site construction manager and a written notification is required three business days prior to any on-site activity.
16. The permittee must minimize the amount of soil disturbance onsite at any one time. A narrative phasing plan must be submitted for review and approval by Town Engineer and Wetland Enforcement Officer.
17. Final site plans and filing mylar of the site development plan must be signed and dated by the Soil Scientist who delineated the wetlands on the site. Final site plans shall be submitted to staff for review and approval.
18. Prior to the commencement of soil disturbance within regulated areas, disturbance limits shall be demarcated with silt fence.
19. Prior to the sale/transfer of the building lots the stone walls shall be constructed by the developer or by future owner prior to the issuance of foundation/zoning permits

Pierre Moran reads draft motion into the record and was seconded by Joe Polletta.

Moosa Rafey: Just for the record, we have a new member, Mr. Jedd. He voted on this application but he reviewed all the minutes of the past meetings that we provided for him. He actually was present at the last meeting and we gave him the minutes of the previous public hearings. Mr. Jedd was familiar with the property and also the activities that are proposed.

Michael Jedd: I'm well aware and I've reviewed the minutes of the past meetings and I was present at the last meeting. I know the property and I'm well versed with the map.

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7. New Applications

- A. Application #2023-1 of Bassett Farm, LLC for transfer of Permit #2021-36 from Bassett Farm, LLC to Austin Knuth, which had been issued for construction of a single-family home and an accessory dwelling on Lot 2-A (430 Bassett Road), Watertown.

Carlo Batini, 77 Canon Ridge Dr. I'm selling the property to Austin and we're trying to transfer the permit to him.

Moosa Rafey: If you make a motion to transfer it should be subject to the original conditions of approval. Whatever conditions were put on the original permit would be carried through.

Tom Murphy motioned to approve Application #2023-1 of Basset Farm, LLC for transfer of Permit #2021-36 subject to the conditions established and was seconded by Luigi Cavallo, Jr.

8. Old Business

- A. Notice of Violation issued to the owner of 30 Jericho Road, Watertown.
- B. Discussion on Application Review Process by the Agency

Moosa Rafey: There's nothing to report for A & B

- C. Discussion on CCIWA Application Fees.

Craig Palmer: I did look up a couple of other towns and noticed that Watertown is a bargain so I think we need to look that and at least be covering the town's cost for these meetings and public hearings. I looked at Oxford and it was substantially different than Watertown. Moosa, I don't know if you can add to that. Do you go onto COG and check area towns?

Moosa Rafey: The Town of Watertown wants to review all the application fees for other agencies too, not only your commission. If you want to come up with some numbers for these activities you can present it to my office and then my office will give it to the Town Manager and they will present it to the Town Council. My recommendation at this time is since the town is doing it for the entire town then it's better to just wait until you see what they come up with. The town also realized that some of these application fees are very low compared to the cost of the projects nowadays and it should be adjusted

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accordingly. Give it a few months and see what happens. I'll keep this on the agenda and I'll talk to my supervisor to see how serious the town is about this issue. In land use applications one size doesn't fit all. Sometimes there are applications where you spend nights of meetings and I think the town wants to cover the time the staff spends on those review process like how much time the Town Engineer, me and other staff spent on it.

Craig Palmer: It's not just the time you're spending at the meeting it's also the time you're spending during the day.

Moosa Rafey: To review, to go the site, sometimes we meet with the applicant on the site. The town wants to include all of that.

Joe Polletta: How do we determine how much time you spend and what the value is?

Moosa Rafey: Our pay rate is clear. We know how much we get paid per hour and we can multiply those to the number of hours that we spend on each application. I think the town wants to do something about it. If you all agree just wait to see what the town wants to do and I'll keep it on the agenda, I'll talk to my supervisor and the Town Manager's Office and if they say they're not ready yet then you can do something and present it to them.

Luigi Cavallo, Jr.: We should be proactive because they don't know the inner workings as well as you and the commission do so it would be better for us to present it to them than them trying to guess what the agency fees may be.

Moosa Rafey: We have a subcommittee who are reviewing the regulations and if they want to come out with some numbers

Craig Palmer: Is it possible through the wetlands office to collect what other towns are doing

Moosa Rafey: We did.

Joe Polletta motioned to table A,B & C under Old Business and was seconded by Luigi Cavallo, Jr. – All in Favor

9. New Business

A. Permit Application for the use of pesticides in Lake Winnemaug, Watertown.

Tom Murphy motioned to Accept and File and was seconded by Joe Polletta- All in Favor

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10. Communications and Bills

- A. Reappointment letter for Mr. Edwin Dalton
- B. Reappointment letter for Mr. Luigi Cavallo Jr.
- C. Reappointment letter for Mr. Pierre Moran
- D. Appointment letter for Mr. Michael Jedd Jr.

Tom Murphy motioned to Accept and File Communications and Bills and was seconded by Luigi Cavallo, Jr. – All in Favor

11. Reports from Officers and Committees

- A. Chairperson's Report

Craig Palmer: I was wondering if at one of these meetings we should have the Town's legal council come here and give us a presentation on some of the legalities of the land use. We only know by what we experience at all the meetings. I don't know if we can have him come and give us a presentation on baseline.

Moosa Rafey: If you want I can invite him to come to the next meeting and I'll put it on at the top of the agenda so he doesn't have to wait to give the presentation.

Craig Palmer: Ok. I don't know how the rest of the commission feels but is there any way to have a list of permits

Moosa Rafey: Every year I give you a list of all the permits that I sent to DEEP of how many permits are issued by the Commission and how many permits I issued

Craig Palmer: I mean a list of the permits names and working and completed. A status. For the more complicated one should we have another site walk through the process or at the finish. If they're doing a lot of disturbance. I don't know if the commission would want to go back and see some of this. We can drive by you just can't go on the property

Moosa Rafey: Do you want to go in the beginning of the job or when it's finished?

Craig Palmer: Paul, do you have any comments on that?

Paul Bunevich: The only thing is with something like this it ends up being a 3 lot subdivision you don't know if they're going to be developed all at once or 3 years apart. Maybe by lot when each lot is completed? It's a good idea because you can avoid issues

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Joe Polletta: Can we legally go or do we have to ask for permission at the end to go check on what we approved.

Moosa Rafey: During the review process when somebody submits an application to you and you receive the application, you have the right to go and see the property. You can put as a condition of approval that after the completion of the project, the commission will revisit the site and the property owner will already know that is one of the conditions.

Craig Palmer: I'd like to thank the wetlands, the town engineer and all of us on this last permit. It goes through a lot, we're volunteers, we don't know all the technicalities and we do rely on the town staff.

Moosa Rafey: We are trying our best to help you as much as we can. We are in the office every day and if any commission member has a question, please feel free to pick up the phone or send an email to us so we can help you, or stop by the office and we can go through the plans with you.

Craig Palmer: When the application is presented to us if it's not all filled out or if they don't have a prudent alternative we don't accept it.

Moosa Rafey: You can deny an incomplete application. If you determine that certain information is missing from the application, the first night you don't have to accept it. The applicant can resubmit it next month.

Joe Polletta: My concern is when we go on a field trip nothing is flagged.

Moosa Rafey: We have an affidavit attached to our application that the property owner or applicant signs that the wetlands will be flagged. If a situation like that arises you just leave and tell the applicant that we're not going to waste our time. Flag the wetlands and we'll come back.

B. Report from Wetland Regulations Review Subcommittee

Tom Murphy: We had a meeting January 25 and we reviewed the Town Attorney's comments, we incorporated them into the new document. Moosa received it, called me and said he read it and he was comfortable with it so we're ready to present it to the full board.

Moosa Rafey: Also at that meeting you recommended a few points to be added to the regulations and I made the changes. Do you want the subcommittee to meet one more time to go through this?

Tom Murphy: We met a few times and we've gone over it so I think we're ok on it.

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Moosa Rafey: I have to send a copy to DEEP for their review and I'll also let the Town Attorney know that these are the extra changes that you made. Once I get back approval from DEEP then we'll hold a public hearing for public comments.

Tom Murphy: Do we have to do a full reading of the regulations?

Moosa Rafey: Only the changes not the entire regulations

Tom Murphy motioned to table Items A & B and was seconded by Luigi Cavallo, Jr. – All in Favor

Moosa Rafey: We have some new members and I have some short videos from DEEP and they recommend them for the new commission members. Especially at the last meeting you said you want some commission members to learn how to read maps and these videos are all regarding reading maps. I talked to Paul and in case you have any questions about the videos Paul is here to answer them.

12. Reports from Staff

- A. Training video presentation on how to read maps/site plans

13. Public Participation

14. Adjournment

Joe Polletta motioned to adjourn and was seconded by Luigi Cavallo, Jr. – All in Favor