

Town of Andover  
**INLAND WETLANDS & WATERCOURSES COMMISSION**  
Tuesday April 13<sup>th</sup>, 2021 - 7:00 P.M.  
Virtual Meeting via Zoom Website Platform

**PUBLIC HEARING AND REGULAR MEETING MINUTES**

Members present: Vice Chair George Elliott, Jed Larson, Jim Hallisey, William Munroe (alternate)

Member absent: Chair Meghan Lally, Ed Smith

Others present: Joseph Wagner – Wetland Agent, Mindy Gosselin – Board Clerk, Scott Person, Erik Loteczka, George Correia, Jerry and Arlene Duchesneau, Shelia, George Logan, Hank Gruner, Florence Dube, Andrew Bushnell, Joe Allard, Heather Van Cara, Melissa Loteczka

**Public Hearing**

1. CALL TO ORDER: G. Elliott called the public hearing to order at 7:00 p.m.
2. ROLL CALL/SEATING OF ALTERNATES: W. Munroe was seated.
3. **IWWC 20-36W**: Eric Loteczka and George Correia, **26 Old Farms Rd** (Andover, CT)- application to construct a wetland crossing for a proposed driveway and new house construction.

G. Elliott noted that there are two new documents on the website for this application, a new crossing plan dated 03.01.21 and a construction sequence final draft.

E. Loteczka, one of the applicants, described the application. He explained that the proposed crossings go over a corridor behind the cul-de-sac and Pine Ridge Dr. The access to rear lots behind the frontage on Pine Ridge would go through a narrow area of approx. 45 ft. on the left side of the end of the street where the cul-de-sac starts.

The proposal involves following the grade right off of Pine Ridge. The current grade dips down and there is a corridor of wetlands. Once you get down into the low-lying/corridor area, the plan involves raising the crossing up approx. 5-6 ft. For the driveway, there would be inter locking concrete blocks to create the outer walls and then the interior portion of it would be filled and a gravel driveway will be on top. On the eastern side, the stream will flow through a 3 ft culvert pipe embedded 25%. Whereas, the western stream will flow through a larger 4 ft wide by 8 ft tall box culvert (25% embedded). This box culvert is one of the more recent changes to the plan, made to comply with another potential jurisdiction with the Army Corps of Engineers.

E. Loteczka reiterated that the driveway will go down, hit that bottom area, and go back up. The access from Pine Ridge gives access to one of two homes on this rear lot.

G. Logan, the applicant's ecologist from REMA associates, was present. He referenced his last memo on February 22<sup>nd</sup>, and stated that previously there was conversation on whether there would be a 36-inch pipe for both streams. He evaluated both streams and was more interested in the western stream because the hydrologic engineer stated that the western stream had a larger watershed of 40+ acres. Whereas, the eastern stream had a 23-acre watershed and had steep 400 ft section associated with the red maple swamp.

G. Logan stated that he had conversations with Hank Gruner and discussed turtles and foraging. Based on all of the discussion and compliance with the Army Corps of Engineers, they decided that they will go with the box culvert. The western side has the box culvert.

G. Logan addressed mitigation. He explained that typically mitigation is not a good idea when a site is undisturbed unless there is an area that can be restored or enhanced. For improvements, the eastern stream that goes up the hill is unfortunately replete with Japanese barberry, an invasive shrub. He proposed to remove the Japanese Barberry within 15 feet of the stream for a length of at least 150 feet. By the time you would get to 150 feet, the corridor starts to veer offsite. There will be a first season where it is mechanically taken removed when the soil is moist. And a second season, where you just remove seedlings. After that, planting other plants to diversify the area (spicebush, nannyberry, gray dogwood, etc.) is recommended.

G. Logan brought up H. Gruner's comment regarding there potentially being a hydraulic issue, which he was uncomfortable answering. G. Logan explained that thought is put into installing the culverts. G. Logan stated that he talked to Corey Rose from the Army Corps of Engineers, and they concluded that this plan will protect the functions and values provided by these natural resources and maintain the ecological integrity of the stream corridor. Additionally, there is a total of at 2,295 sqft. (0.5 acres) of disturbed area in the wetland, and 8,457 sqft. (.19 acres) of disturbed area in the upland review area. He also stated that there are E&S controls in plans submitted.

G. Elliott asked G. Logan about the construction sequence in relation to the removal of vegetation/invasives. He suggested that removing it earlier would be beneficial. G. Logan stated that the Japanese barberry would have to be removed for two seasons and it can start at any time. The earlier in the season the better.

G. Elliott asked if there was any invasive bittersweet on the site. G. Logan said that he did not see a big infestation but it is most likely there. It would most likely be on the edge of the wetlands in the upland review area.

J. Larson stated that there was a recommendation to build a bridge but it was ruled out because of the cost. However, J. Larson wanted to get a comparison of costs, what is the increase of cost. G. Logan stated that the Army Corps of Engineers would not

recommend a bridge, they would recommend a box culvert. Aside from economics, there is a balancing act of what function is going to be increased by using a bridge – there is not much more gained with a bridge. Economically, a bridge is a big project. If this was a roadway going over a corridor with 25 lots up the hill, it would make more sense.

J. Larson stated that this is the most significant filling of a wetland he has had since he's been on the commission.

A. Bushnell stated that this is a pretty long span which would drive the cost of the bridge up because of the supports and abutments needed. A wooden bridge is pressure treated and could potentially leach chemicals into the ecosystem.

J. Larson stated that he did not understand what H. Gruner expressed concerns about last meeting regarding the bridge and the box culvert. H. Gruner stated that he believes that a box culvert is an improvement.

H. Gruner stated that it is not as easy as crossing two streams, it widens out quickly at the crossing and becomes more of a sheet flow. He is concerned of physical alterations downstream due to the pinch points that are being created with these culverts. Downstream is in close proximity to the Hop River. For the significance of the system, you can't look at these two wetlands separately, they are part of the hop river system which is one of the town's most important natural resource.

H. Gruner stated that the organisms aren't the issue, the hydrology of the hop river system and its natural flow vs. altered flow is the issue. When you create culverts, it changes the dynamics. If it was a narrow-established channel that would be different.

H. Gruner said that the question is not will it handle these flows, it is how it will handle these flows.

W. Munroe asked if two culverts could be installed. A. Bushnell stated there is a box culvert to the west and a circular culvert to the east. W. Munroe said that a circular culvert would be more challenging to organisms and narrowing the stream.

A. Bushnell stated that the culverts were placed at the low point of flow to mimic what is there now. The easterly flow is not very wide and is a pretty narrow channel of flow. There is also a wide pad of rip rap downstream to slow velocity and spread it out. Both culverts can pass a 100-year storm. E. Loteczka pointed out that this design meets the Army Corps of Engineer's standards of culvert a being able to support a 50-year storm with continuous flow, no pressure.

G. Logan added that in his January memo, he visited the site after a storm and took site photos. Photos 2 and 3 show what happens after these stream cross each other. There

is a wide and flat wetland corridor. G. Logan continued to say that he does not think that the proposal will detrimentally affect the corridor or habitat downstream.

J. Hallisey asked if someone previously stated that there is no increase in impervious surfaces. G. Logan stated that there is no increase in impervious surfaces within the watershed.

J. Allard, from 52 Pine Ridge, stated that one of the streams runs through his backyard. He expressed concerns on the box culvert creating more of an issue when the water gets higher. He asked what would happen if the box culvert is clogged? Where does that put him? Who is responsible when a problem happens down the road?

S. Person stated that this property was owned by the Stanley family. The subdivision was created in 1957, and the Stanley family kept their access from Pine Ridge to access their property. After the subdivisions were put in, there was a remaining 30 acres which was divided into 3 parcels. Two houses came in from Hendee Road and the other had access from Pine Ridge. The wetlands commission wanted the parcel on Pine Ridge to alternatively have access from Old Farms. The access was given at Old Farms, and they got their building lot. When the landowner gave the access to the 14 acres, he didn't want access given to anyone else. He had a hard time getting any permissions from the wetlands commission. Now the new landowner wants to cross 70 ft of wetlands, cross 2 intermittent streams, and disturb the associated upland review areas. S. Person stated that from what H. Gruner has explained, this is a very critical riparian habitat. S. Person stated that this is definitely a regulated activity and looking at the CT General statutes is key when reviewing this application. He then quoted wetland regulation CGS 42 regarding not being able to divert flow, fill wetlands, or erect a permanent structure. S. Person also referenced spanning the whole area as an alternative.

H. Gruner asked the applicant if they considered a second box culvert instead of only one crossing being a box culvert. E. Loteczka stated that cost is a factor and knowing that the western stream was the larger of the two watersheds – the box culvert was placed there.

J. Larson commented about alternatives considered and not chosen. Right now, this lot is a single lot, the purpose of the project is to subdivide after it gets clearance from the Commission. So, that's an alternative, to have one lot with access from Old Farms road as originally intended. This would not disturb the wetlands.

G. Logan stated that you need to look at physical impacts. When it comes to direct impact, it's a balancing act. The pipes were increased in size and meet Army Corps guidelines. He continued to explain the project in relation to the wetlands.

J. Allard expressed further concern of precedence and where the approvals stop.

J. Larson asked G. Logan a question about the 50- and 100-year storms in regards to addressing J. Allard's comments about flooding. What would make him not worry about flooding if this is installed? A. Bushnell stated that it can pass a 100-year storm; the last 100-year storm occurred in 2006. It can occur more frequently than 100 years but not every year. If the culverts got backed up enough it would go right over the driveway and keep going.

S. Person stated that everything is referencing designs, but the wetland regulations must be referenced too. He stated that 70 feet of wetlands is getting filled and that goes against the wetland regulations. The issue is filling wetlands and obstructing the flows.

J. Allard stated that the culvert doesn't need 50- or 100-year storms to flood. There can be ice dams and other factors that back up the stream and cause problems up and down stream.

#### 4. ADJOURNMENT

J. Larson MOVED to adjourn the public hearing at 8:24pm. J. Hallisey SECONDED.

### **Regular Meeting**

Members Present: George Elliott (Vice Chair), Jed Larson, Jim Hallisey, William Munroe (alternate)

Members Absent: Meghan Lally, Ed Smith

Others: Joesph Wagner – Wetland Agent, Mindy Gosselin – Board Clerk, Erik Loteczka, Scott Person, Jerry and Arlene Duchesneau, George Correia, Andrew Bushnell, George Logan, Hank Gruner

1. CALL TO ORDER: G. Elliott called the meeting to order at 8:25 p.m.
2. ROLL CALL/SEATING OF ALTERNATES: W. Munroe was seated.
3. ADDITIONS/CHANGES IN ORDER TO AGENDA

Add item 6a. IWWC 20-36: Eric Loteczka and George Correia, **26 Old Farms Rd** (Andover, CT)- application to construct a wetland crossing for a proposed driveway and new house construction. Subsequently renumber the other items.

G. Elliott MOVED to change the agenda as indicated above. By roll call vote, MOTION CARRIED 4:0:0.

4. APPROVAL OF MINUTES
  - a. March 1<sup>st</sup>, 2021 Regular Meeting Minutes

Item 3. "Add item 11c. Revision ~~on~~ of Regulations and Scheduled Hearings"

J. Hallisey MOVED to approve the March 1<sup>st</sup>, 2021 Regular Meeting Minutes as amended. J. Larson SECONDED. By roll call vote, MOTION CARRIED 4:0:0.

5. PUBLIC COMMENT: None.

6. OLD BUSINESS – PERMIT APPLICATIONS

- a. **IWWC 20-36:** Eric Loteczka and George Correia, **26 Old Farms Rd** (Andover, CT)- application to construct a wetland crossing for a proposed driveway and new house construction.

J. Larson expressed that he is unsure how to proceed. He needs to think about the comments made regarding upstream affects and setting a precedent.

G. Elliott stated that upstream affects should be considered in the decision. As for precedent, every application is reviewed on a case by case basis. Wetland crossings with fill and culverts are not against the state statutes, there have been applications approved in the past. The question here is whether or not this activity is too significant and has too much impact.

W. Munroe discussed mitigation in relation to the application.

A. Bushnell explained the feasibility of a second structure next to the existing proposed structure(s). He also explained that the likelihood of it damming because of a branch is low because of the size. He also stated that ice dams will happen whether the culvert is there or not. E. Loteczka echoed A. Bushnell and stated that it would be hard to dam up a culvert that is 8 feet wide. He also stated that the wider/bigger culvert is on the side of where other homes are located.

J. Larson MOVED to request an engineering review to address potential upstream impacts (specifically flooding of upstream properties) with the current proposed design. J. Hallisey SECONDED. By roll call vote, MOTION CARRIED 4:0:0.

J. Hallisey stated that it is important to discuss other aspects aside from potential upstream flooding next meeting. He would like the opportunity to review H. Gruner's report again and potentially continue to comment on it.

- b. **IWWC 21-03:** Jeff Murray, **11 School Rd** (Doris Chamberlain Nature Pond) (Andover, CT), Application to cut and remove brush and small trees from the shoreline of the Doris Chamberlain Nature Pond.

G. Elliott reviewed some of what was discussed last meeting in regards to this application and removing debris from within the watercourse. Agent Wagner also referenced the regulations that pertain to this activity.

There was also discussion on why this application had to come to the commission.

J. Larson MOVED to approve application **IWWC 21-03, 11 School Rd.** J. Hallisey SECONDED. By roll call vote, MOTION CARRIED 4:0:0.

## 7. ENFORCEMENT ACTIONS

- a. Kurt Boehm, 33 Route 87 (Andover, CT), construction in an upland review area and deposition of material into a wetland without a permit. Order to Remediate issued 2/24/2020; Show Cause Hearing held 3/2/2020.

Agent Wagner stated that there has not been any further action since he drove by the week prior. J. Larson drove by yesterday and confirmed that there has been no action.

G. Elliott stated that he notes that it has been over a year since the hearing. The order has not been complied with so the next step would be to contact the town attorney. J. Hallisey stated that there have been some situations that slowed Mr. Boehm down and he did not receive proper guidance at first. Mr. Boehm should not go to court right now. J. Larson stated that the Wetland Agent should get a firm commitment from Mr. Boehm. Ask him if he wants to go to court or if he wants to get it done. The shed being frozen was a while ago and it does not seem that Mr. Boehm is making an effort.

G. Elliott stated that there should be action by next meeting. J. Larson stated that the Commission needs to let him know that it needs to be completed by next meeting, otherwise this will be taken to the next step (legal action).

## 8. AGENT REPORT

- a. Pending Administrative Permit (Agent) Approval- IWWC 21-04: Rick Risley, 85 Lakeside Drive- Placement of a 12-foot x 10-foot prebuilt shed within the Andover Lake 200-foot Upland Review Area.

Agent Wagner stated that this shed would be placed 26 ft from the lake and discussed with the applicant how to manage runoff. The applicant contacted Kloter Farms and they recommended not installing gutters. There will be a three-quarter inch stone that should be enough to dissipate the rainfall.

J. Larson stated that there are now lake regulations (zoning) in place and since this shed is greater than 100 sqft, a nutrient allocation sheet should be submitted with associated calculations. At a minimum he'd be digging a trench to catch the rain in the upland review area, however he needs to go beyond the trench because it is more than 100 sqft.

IWWC would like to know his plan because it will require digging in the upland review area. Agent Wagner needs to work with Zoning Agent Hallisey because the lake regulations fall under zoning.

b. Other

Agent Wagner visited 27 Hendee Rd. on March 23<sup>rd</sup>, 2021 and mailed a letter regarding the uninstalled silt fence. He also handed him a copy of the letter at the site visit. There had been reports of a missing silt fence and siltation. Agent Wagner looked at the hillside to the west of the house and the trench. The homeowner explained that the well line was vandalized. The line was cut and filled with some sort of chemical – that was the reason for the trench. The hillside was previously dug up and it was seeded. Agent Wagner noted several piles of dirt on the edge of the upland review area. He talked to the owner about plantings and stabilizing the area. The homeowner talked about wanting to install jersey barriers and fill it, Agent Wagner advised him to apply for a permit if he wanted to do that activity.

Agent Wagner has been in contact with Jim Blair, of 422 Lake Rd. Agent Wagner has received inquiries about the gravel driveway that is present. He sent an email to J. Blair on March 23<sup>rd</sup>, 2021 and J. Blair said he'd be over there in the next few weeks and it would be seeded by April. J. Blair also said that the gravel road will be removed as the vehicles are done/leaving, there will be nothing left by the water at the end.

Agent Wagner visited 436 Lake Rd for the recently approved new house construction. He visited the site on April 12<sup>th</sup> and 13<sup>th</sup> with the builder and applicant. They expressed that they wanted to clear trees and only leave 6-8 trees so they can have a view of the lake. Agent Wagner referenced their originally submitted and approved application, that stated that there would be a wood buffer between the house and lake. G. Elliott stated that the expressed clear cutting is a substantial modification. The homeowner sent Agent Wagner the special meeting minutes however, it did not provide further information. G. Elliott asked if they maintained a vegetative buffer along the shore. Agent Wagner did not comment.

Agent Wagner will inform the homeowner that they need to apply for a permit modification.



9. OTHER BUSINESS

a. Conservation Commission Update of Vernal Pool Project

H. Gruner stated that the UConn students/staff will be presenting their results on vernal pool mapping on Tuesday April 27<sup>th</sup> at 7pm via zoom. The Wetlands Commission is invited to attend.

The second phase will be collecting in field data next spring.

b. Appointment of IWWC Members 2021-2023

M. Lally does not wish to continue to serve on the Commission at this time.

E. Smith might be willing to serve as an alternate but not as a regular member.

W. Munroe has expressed willingness to step in as a regular member.

J. Larson stated that he will stay on the Commission as a regular member.

J. Hallisey stated that he does not wish to continue to serve on the Commission

G. Elliott stated that he will stay on the Commission.

G. Elliott stated that they are short members and need recruits.

c. Revision of IWWC Regulations

G. Elliott contact Attorney Branse about revising the IWWC regulations. He advised IWWC to wait until end of legislative session in case any changes pertain to the revisions.

d. IWWC Standard Permit Conditions

Agent Wagner wanted to send the standard permit conditions out for the Commissioners to review.

10. NEXT REGULAR MEETING: Monday May 3, 2021 @ 7:00 p.m.

11. ADJOURNMENT

J. Hallisey MOVED to adjourn the regular meeting at 9:44 p.m. J. Larson SECONDED.

By roll call vote, MOTION CARRIED 4:0:0.

Respectfully submitted by Mindy Gosselin,

*Mindy Gosselin*

Please see the minutes of subsequent meetings for the approval of these minutes and any corrections hereto.