

East Hampton Inland Wetlands & Watercourses Agency
Regular Meeting
January 25, 2012
Town Hall Meeting Room
Unapproved Minutes

1. **Call to Order:** Chairman Jeffry Foran called the meeting to order at 6:30 p.m.

Present: Jeffry Foran, Peter Wall, Marc Lorah (6:35pm), David Boule, Dean Kavalkovich, Josh Wilson, Scott Hill, and Bob Talbot

Absent: Maureen Heidtmann

2. **Seating of Alternates:** Bob Talbot was seated

3. **Approval of Minutes:**

A. **December 21, 2011 Meeting;** *Mr. Kavalkovich moved, and Mr. Wilson seconded to approve the minutes of December 21, 20 11. The motion carried unanimously.*

4. **Communication, Enforcement, and Public Comment:**

Communications: None

Enforcement: None

Public Comments: None

5. **Agent Approval:** None

6. **Reading of the Legal Notice:** None

7. **New Applications**

A. **Application of Donald A. DeVivo, 18 Wells Avenue, New Residential Development for Single Family Units (2) including Excavation, Drainage Improvements, and Activity in the Buffer/Setback Area – Map 05A/Block 63A/Lot 1:**

Bart Bovee, MBA Engineering of Berlin Connecticut, was present to discuss the application. He explained that the applicants were present as well. He provided staff with a copy of the signed wetland delineation for the record. Mr. Bovee reported that the property is located on Wells Avenue, adjacent to Lake Pocotopaug. The property is approximately 2.4 acres in size. The property presently contains one rental unit that has been split and rented as a duplex, and three cottages “bunkies” located in the front of the property. The wetlands are located on the easterly side of the property extending from a small drainage discharge at Lake Pocotopaug and extending southerly across the site toward the Mallard Cove Condominium.

The application is to split the site into two proposed lots. The existing house will be removed and the applicant proposes two houses on each parcel, set a minimum of 50' off the wetlands. The driveways come in on the westerly side of the property to keep impervious surfaces as far off the wetlands as possible. One of the cottages will also be removed. The remaining cottages will be divided between the two proposed parcels to be used as bunkhouses on each lot. There is no intent to rent the cottages out. Instead of having five potential occupants on a weekly basis on the property there will only be two owners.

The only proposed activity in the wetlands is to rebuild a small, existing footbridge across the lowest part of the wetlands. Currently the footbridge is 2' wide. The proposal is to widen the footbridge to 4'. It will be reconstructed and placed above ground. There will be no posts or piles.

All the other activity in the upland review area is related to the construction of the houses and extension of utilities. The applicant proposes to mitigate disturbance of the wetland by the construction of the water gardens shown on the plans. Each water garden will be used to drain water off and pre-treat the runoff into swales before it enters the wetlands or, in the case of the northerly side, a proposed storm drain to be installed at the end of Wells Avenue to a plunge pool and another small rain garden between the northern property line and the northern cottages.

A conservation easement is proposed for the southeastern corner of the property which is wooded. Further north the property is maintained as lawn. A mutual use easement is proposed for the northwestern corner to allow each parcel to use one driveway.

Mr. Bovee explained that each of these homes will have walkouts. The fill will be used to minimize the grading adjacent to the wetlands. The walkouts will be set at the existing grades to minimize the disturbance close to the wetlands.

The Agency would like a detailed location of the cuts and fills. The fronts of the lots have minimal activity. There will be some tree removal. Presently 50% of the lot is wooded. After completion 35% of the lot will be wooded. The applicant will provide more detail on the percentage of wooded area at the next meeting. The applicant will also provide a cross-section through the area to be graded for clarity.

Mr. Bovee explained that part of the runoff will be deflected into a rain garden. Additional runoff will be diverted through another rain garden, pick up more water from the area, and swaled down to the corner of a bunkhouse. A new catch basin with a sump will be located at the end of the road. This will be piped to a discharge beyond the cottage into a plunge pool and another rain garden. The applicant believes that by using these improvements a lot of sedimentation and street runoff will be stopped from entering the Lake. A detail of the plunge pool will be provided for the next meeting.

Mr. Bovee explained that the footbridge was originally placed to allow foot traffic to cross over a wet lawn after a heavy rain or during a wet season. The plantings will be

selected based on the needs and design of the rain gardens. Mr. Bovee strongly believes that this proposal will provide better stewardship for the wetlands and the Lake than the present condition of the parcel. The plan calls for a pervious material on the driveways. They will primarily be gravel with an impervious apron and a small landing before each of the garages. The Agency would like complete infiltration figures and design information.

Mr. Wilson explained that because the activity that will directly impact the wetland involves hand construction of a wooden structure he does not believe it to be significant in its impact on the wetland. He believes it to be a minimal, direct impact and suggests that during the application process if it becomes evident that it does pose a concern for the wetland he will ask that the applicant omit rebuilding the bridge from their plans.

Mr. Wilson moved, and Mr. Hill seconded, that the Agency accept the application of Donald A. DeVivo, 18 Wells Avenue, New Residential Development for Single-Family Units (2) including Excavation, Drainage Improvements, and Activity in the Buffer/Setback Area, Map 05A/Block 63A/Lot 1, deem the activity not to be a significant activity in a wetland, and continue the application to the next regularly scheduled meeting on Wednesday, February 29, 2011. The motion carried unanimously.

8. **Continued Applications:** None

9. **Public Hearing:** None

10. **New Business:** None

11. **Old Business:**

A. **Discussion** - Permit No. IW2011-005 – IW92515, 68 Spellman Point Road:

The Chairman discussed the concerns that he, the Agency, and the community have regarding the IWWA permit that was issued for this property. The Agency would like to review the application to determine if they missed anything in the application process and what changes could be made to ensure that similar missteps, if any, do not happen again.

Mr. Hayden, Wetlands Enforcement Officer, reported that the project is in compliance with the conditions of the Permit. All E&S controls are in place per the Permit. Additional E&S controls are also in place. There is no evidence of any soil movement even to the sedimentation fence. There is no evidence that any material has migrated to the Lake. It is his opinion that the controls are extremely adequate for the project. There is no disturbance for the first 35' off the Lake. The trees, shrubs, and grasses were cut but the area was not grubbed and the roots and stumps were not removed.

The Commission discussed the number of trees cut down for the project. Mr. Hayden reported that two trees were cut down near the water. The rest of the trees were on the interior of the property. He reported that shrubs were also cut down. The plan did indicate that all areas within 35' of the structure would be disturbed. The plan did call for

regrading as well. The lot cannot be regraded without disturbing trees and shrubs. The plan also called for creation of rain gardens and re-landscaping the yard when construction is completed. The Chairman indicated that a total of 14 trees were cut down on the lot.

The Agency discussed the need to be more concerned with the timing of construction plans and consider time of year restrictions especially around the Lake. They also believe that had the applicant informed them of plans to clear the lot they would have requested they consider saving some of the trees.

Mr. Hayden indicated that there is about 5000 sq ft of disturbance on the parcel. The plan called for 6000 sq ft in the upland review area. The concern for the tree removal is understandable but in this instance the E&S controls are adequate, the mulch is stable and holding the soil. There is no impact to the Lake from the construction.

The Agency discussed steps that could be added in the future. Regulation of vegetation, landscaping, maintenance and clearing were all discussed. The Agency agreed that the activity within and directly along the shoreline is of most concern to them and of major impact to the Lake. The quality of the Lake has deteriorated over the years for several reasons. Some of the proposed reasons for the deterioration are increased goose populations, increased lawns, increased phosphorous because of lawns, poor E&S control measures outside the immediate area but in the watershed, etc. In this case the Agency might ask what is the intent going forward. The greater concern for the future should be the intent of the applicant for the future nature of the shoreline. Natural vegetation maintained along the shoreline is of great concern.

The Agency would like photographs of sites for all applications. It will aid in identifying vegetation along the waterline. Grading plans should be independent of the site plan and colored to show the cut and fill for the project. Everything being removed or filled should be clearly visible. Limits of disturbance should be defined on the grading plan as well. A list of vegetation impacts should be required as well. The Agency would like to consider a potential limitation for re-vegetation of the area immediately adjacent to the Lake unless the applicant can prove their plans will benefit the Lake. Construction phasing and timing should also be considered in future applications.

Mr. Hayden indicated that the application process could be immediately changed to require photographs of the property, vegetation impacts, time frame for construction, and a cut and fill plan with limit of disturbance and contours.

The Agency will look into adopting a vegetative buffer along the lakeshore. It will need to be drafted and go to public hearing for adoption. It will need to be reviewed for legality as it is not included in the model regulations from the State.

Mr. Foran moved, and Mr. Hill seconded, to modify the IWWA application as soon as possible to include the requirements for photographs, vegetation impacts, time frames of

construction plan, and a cut and fill plan with limit of disturbance and clearly identified contours. The motion carried unanimously.

12. Public Comments:

John Hines, 38 South Main Street, discussed his disappointment that more people didn't turn out to the IWWA meetings. He finds it very educational to see the knowledge and experience of this Commission. Tonight's discussion was educational and rewarding. He believes that it is clear that communication can improve and with the changes made this evening it will.

13. Adjournment:

Mr. Wilson moved to adjourn the meeting. Mr. Lorah seconded the motion. The motion carried unanimously. The meeting adjourned at 7:45 pm.

Respectfully submitted,

Daphne C. Schaub
Recording Secretary