

**CONSERVATION COMMISSION &
INLAND WETLAND AGENCY MINUTES
February 26, 2019**

I. CALL TO ORDER

Mr. Verel called the meeting to order at 6:00 p.m.

II. ROLL CALL

Ms. Cherichetti took the roll call.

PRESENT: John Verel, Chair; Ed Holowinko; John Moeling; Steven Klocke and Thomas Keegan

*** Mr. Verel recused himself from the first application and left the room. Commissioner Holowinko became acting chair.

III. RECEIPT & DISCUSSION

- a) **#S18-530 – McKendry Court – Muraski** – Excavation & filling associated with installation of buried wall adjacent to a watercourse (Five Mile River)

Ms. Cherichetti briefly introduced the application. She described the location of the project and the Five Mile River. She noted the applicants had previously filed for an application, but withdrew it following Agency comments. She added the applicants had retained a professional engineer, as previously encouraged by the Agency, to assist them with this project within the FEMA floodway.

Dan Valentine, one of the residents on McKendry Court, gave an overview of the proposal and a history of the area and the current problems. He displayed photographs of the area during and after storm events. He stated the flooding has caused the road to be impassible. He described the group's retention of an engineering firm and the proposed design for bank stabilization.

Joseph Canas, PE with Tighe & Bond, further described the proposed design. He spoke of the proposal while referring to the submitted site plan and cross sections. He referenced his report that summarized the results of his analysis of the changes to the base flood elevation. His analysis indicated there would not be a rise in the base flood elevation because of the project.

Mr. Moeling asked about the timing of the repair of the road and driveways, confirming that repair would not require a permit and could happen at any time. Mr. Valentine stated they would like to do all of the work at the same time and after the wall is fixed.

Ms. Cherichetti inquired about the proposed timing of the work. Mr. Valentine indicated they would do the work immediately.

*** Mr. Verel returned to the meeting and resumed being the Chair.

IV. DISCUSSION AND/OR DECISION

- a) **#S18-529 – 405 Rowayton Avenue – Vega** – Corrective Action work following filling and wall construction in and adjacent to a watercourse (Keelers Brook)

Ms. Cherichetti stated this application had been received at the previous meeting. She noted the application is a Significant Regulated Activity application that requires a public hearing. She discussed the statutory deadlines for the application. She added the application remains incomplete and the applicant provided a four week extension of time. The application would return to the next meeting's agenda.

V. FEE WAIVER/REDUCTION REQUESTS

- a) **#S18-529 – 405 Rowayton Avenue – Vega** – Waiver of Fee for Corrective Action work following filling and wall construction in and adjacent to a watercourse (Keelers Brook)

Ms. Cherichetti read aloud the letter from the Vegas requesting a reduction of the fee and delayed payment. The letter requested the fee be reduced from the Corrective Action Significant application base fee of \$1810 to the Corrective Action Minor application base fee of \$500. The letter also requested a one month delay for payment.

Ms. Cherichetti also read aloud the section of the Regulations that addresses fees and waivers. There was discussion regarding the applicability of the two reasons provided in the regulations for waiver or reduction of the fee.

***** MR. KEEGAN MADE A MOTION TO DENY REDUCATION OF THE FEE, BUT ALLOW DELAYED PAYMENT.**

***** MR. HOLOWINKO SECONDED THE MOTION.**

Mr. Moeling asked if it was typical that the fee be paid upon submission of the application. Ms. Cherichetti confirmed. He suggested the motion not condone further delayed payment of the fee.

***** MR. KEEGAN WITHDREW HIS MOTION.**

***** MR. KEEGAN MADE A MOTION TO DENY THE REQUESTED REDUCTION AND DELAYED PAYMENT OF THE FEE.**

***** MR. HOLOWINKO SECONDED THE MOTION.**

***** THE MOTION PASSED UNANIMOUSLY (5 IN FAVOR).**

- b) **#S18-530 – McKendry Court – Muraski** – Waiver of Fee for Installation of buried wall adjacent to a watercourse (Five Mile River)

***** Mr. Verel announced he would be abstaining from any discussion or decision on this matter.**

Ms. Cherichetti confirmed the Agency members had a copy of the letter requesting waiver of the fee. She noted the application fee for a Intermediate Permit application is \$600.

There was discussion regarding the previously withdrawn application and that the accompanying fee waiver request was denied. There was consensus that circumstances had not changed and the circumstances did not meet either reason for waiver provided by the Regulations.

***** MR. KLOCKE MADE A MOTION TO DENY THE REQUESTED WAIVER OF THE FEE.**

***** MR. MOELING SECONDED THE MOTION.**

*** **THE MOTION PASSED UNANIMOUSLY (4 IN FAVOR, 1 ABSTENTION - VEREL).**

VI. ENFORCEMENT ACTIONS

- a) **#V19-980 – 34A Bayne Street – Papadopoulos** – Show-cause hearing – Failure to meet directives of Notice of Violation #V18-976 for clearing, removal of vegetation and grading in and adjacent to a wetland and watercourse without a permit

Ms. Cherichetti explained this enforcement began with a Notice of Violation resulting from her office's inspection of the property following a complaint. Some of the Agency members recalled the owner had recently filed a Corrective Action Permit application. Ms. Cherichetti confirmed and noted the application was denied at the January meeting. She explained the respondent had very recently retained an attorney and the attorney has requested the show-cause hearing be tabled to the next meeting on March 12, 2019.

The Agency members agreed to table the hearing to the next meeting.

- b) **#V19-981 – 7 Kensett Ridge – Vitiello** – Show-cause hearing – Failure to meet directives of Notice of Violation #V18-978 for removal of vegetation and filling adjacent to a wetland and watercourse without a permit

No one was present for the hearing. Ms. Cherichetti excused herself to look for the respondent in the hallway, but returned with no one.

Ms. Cherichetti described the location of the property, the estimated location of the wetlands and the tree cutting that had occurred in the southern portion of the property. She noted her office had sent a violation warning letter in early December 2018 following a complaint. Upon inspection with the owner in late December 2018, a Notice of Violation was issued. The Notice directed the respondent to stop work, have a soil scientist delineate wetlands, and file for a permit as necessary. Work on the property has ceased, however no wetland delineation report or application was filed. The Order was issued on February 1, 2019.

Ms. Cherichetti noted that luckily the only activity to occur was removal of shade trees and no filling or grading had occurred. She said she knew a soil scientist was out at the property, however they have still not received any documentation regarding the wetland delineation.

Mr. Klocke suggested also tabling the hearing to give the respondent a final chance to provide additional information. There was consensus to leave the hearing open and reconvene on March 12, 2019.

- c) **#V19-983 – 8 Holiday Drive – Kalmanidis** – Show-cause hearing – Failure to meet directives of Notice of Violation #V18-979 for unauthorized site work adjacent to a wetland and watercourse without a permit

No one was present for this hearing.

Ms. Cherichetti described the location of the property and noted the swath of estimated wetland area across the rear of the property on the Wetland Map. She stated a Notice of Violation was issued on January 9, 2019 following receipt of a complaint of clearing and grubbing in the rear yard. It appears the activity is occurring within the wetland itself. The Notice contained directives to stop work, hire a soil scientist, and file for a corrective action permit. None of the directives were met by the deadlines given.

A follow-up letter was sent with a reminder of the Notice of Violation and the deadlines that had passed. The Enforcement Order was issued on February 15, 2019 following lack of response from the respondent.

Ms. Cherichetti distributed two photographs of the property showing activity in the rear yard. She explained the Conservation Office staff has not received access to the property by the respondents, so the photos were taken from the driveway and road.

***** MR. MOELING MADE A MOTION TO UPHOLD THE ORDER.**

***** MR. KEEGAN SECONDED THE MOTION.**

***** THE MOTION PASSED UNANIMOUSLY (5 IN FAVOR).**

Ms. Cherichetti noted that the deadline in the Order to submit a soil scientist's wetland delineation is today, February 26th. She added that once the Agency upholds an order, it becomes their order and she does not have any administrative options to extend deadlines, including for example, this one which has effectively passed. She recommended pushing all deadlines back by two weeks.

***** MR. MOELING MADE A MOTION TO AMEND HIS PREVIOUS MOTION TO UPHOLD THE ORDER WITH MODIFICATION TO THE DEADLINES PROVIDED IN THE ORDER.**

***** MR. KEEGAN SECONDED THE MOTION.**

***** THE MOTION PASSED UNANIMOUSLY (5 IN FAVOR).**

VII. BOND RELEASES

- a) **#S13-434 – 15 May Drive – Falzone** – Release or reduction of bond held (\$2,260.00) for construction of a new residence, pool and associated sanitary septic, drainage and landscaping adjacent to a wetland and watercourse

Ms. Cherichetti gave a very brief overview of the permit. She showed photographs of the site from an inspection mid-January 2019.

Mr. Klocke asked about the description of the buffer on the approved site plan and in the special conditions of the permit. Ms. Cherichetti read the conditions pertaining to the buffer area aloud and provided a copy of the site plan.

There was discussion regarding the intent of a vegetated buffer.

Mr. Holowinko noted it did not appear to him that the intent of the buffer was met.

Mr. Moeling suggested the owner begin to not mow the buffer and return after the buffer has filled in.

***** MR. KLOCKE MADE A MOTION TO DENY THE REQUESTED BOND RELEASE.**

***** MR. HOLOWINKO SECONDED THE MOTION.**

***** THE MOTION PASSED UNANIMOUSLY (5 IN FAVOR).**

VIII. APPROVAL OF MINUTES

- a) January 8, 2019 meeting minutes

***** MR. MOELING MADE A MOTION TO ACCEPT THE MINUTES.**

***** MR. KEEGAN SECONDED THE MOTION.**

*** THE MOTION PASSED UNANIMOUSLY (4 IN FAVOR, 1 ABSTENTION – VEREL).

IX. PUBLIC COMMENTS

There were none.

X. COMMENTS OF STAFF

Ms. Cherichetti distributed a spreadsheet of all wetland permits and declaratory rulings since November 2018. She briefly discussed the declaratory rulings and the minor permits issued administratively. There was also discussion regarding the enforcement actions taken during that time period.

Ms. Cherichetti discussed the other things the Conservation Office was doing, including review related to the Plan of Conservation & Development, the Flock Process Dam Removal Project, and Operating Budget review.

There was a discussion regarding the proposed operating budget and the budget process. The Agency members asked about the reorganization that had been reported in the newspaper. There was discussion regarding the duties of the Wetland Agency and the Conservation Commission.

XI. COMMENTS OF COMMISSIONERS

Commissioner Moeling noted he would not be able to attend the next meeting.

XII. ADJOURNMENT

*** **MR. KEEGAN MADE A MOTION TO ADJOURN.**

*** **MR. VEREL SECONDED THE MOTION.**

*** **THE MOTION PASSED UNANIMOUSLY.**

Meeting adjourned at 7:45PM.