

**TOWN OF SALEM
INLAND WETLANDS & CONSERVATION COMMISSION
REGULAR MEETING MINUTES
MONDAY, MARCH 2, 2020 – 7:00 P.M.
SALEM TOWN HALL – CONFERENCE ROOM 1**

1. Call to Order

Chairman Natoli called the meeting to order at 7:04 p.m.

2. Roll Call/Seating of Alternates

Present were Chairman Edward Natoli, Jr., Vice Chairperson Diba Khan-Bureau, Commissioners Kimberly Bradley, Jim Mulholland, Roger Phillips, and Linda Wildrick. Absent were Commissioner Gale Balavender and Alternate Commissioners Lou Allen, Jr., Hank Horn, and Larry Moore. Also present was Zoning & Wetlands Enforcement Officer (ZWEO) Matthew Allen.

3. Approval of Agenda

Chairman Natoli will be reporting on a discussion he had with the Eightmile River Wild & Scenic Watershed Committee regarding a Fall Program they are planning to host and the Riparian Corridor Overlay Zone (RCOZ) Regulations.

4. Approval of Minutes:

A. February 3, 2020 Regular Meeting Minutes

M/S/C: Khan-Bureau/Mulholland, to approve the Meeting Minutes of February 3, 2020.

Discussion: None. Voice vote, 5-0-1. Voting in Favor: Commissioners Bradley, Khan-Bureau, Mulholland, Natoli, and Wildrick. Voting in Opposition: None. Voting in Abstention: Commissioner Phillips.

5. Public Comment – *none*

6. New Business

a. IWCC #20-01 – 375 Forsyth Rd. – Douglas & Mary Cummins, Owners; Christopher Casadei, Applicant – For an as-of-right determination for farming (forestry) use.

Applicant Christopher Casadei, Hull Forest Products, presented an application for a timber harvest at 375 Forsyth Road. The woods located on the property was thinned approximately 18 years ago and he would like to conduct another thinning of the area this coming summer. Two stream crossings are located on the property for which he is seeking an as-of-right determination. One of the streams, located at the south end of the property, provides intermittent drainage and feeds into a more substantial drainage. Corduroy will be temporarily installed to stabilize the area during the harvesting. The second stream is a stone crossing, which might be utilized to transport equipment. If utilized, no material will be dragged across this particular crossing. The operation will take approximately two to three months and approximately 100,000 feet of sawlogs and 150 cords of firewood will be removed. As a forester, the Applicant has marked and measured all of the trees, most of which are distressed while others have reached their financial maturity. The lot will remain very wooded following

the removal of the trees and the area will be stabilized, seeded, and, if necessary, mulched following the completion of the project. ZWEO Allen confirmed that the streams are not part of the Riparian Corridor Overlay Zone.

Commissioner Natoli requested and the Applicant agreed to contact ZWEO Allen prior to the start of and immediately following the completion of the project. The possibility of ZWEO Allen inspecting the property following the completion of the project was briefly discussed.

M/S/C: Bradley/Wildrick, to approve Application IWCC #20-01 – 375 Forsyth Road – Douglas & Mary Cummins, owners; Christopher Casadei, Applicant – for an as-of-right determination for determination for farming (forestry) use, as proposed. Discussion: None. Voice vote, 6-0, all in favor.

b. IWCC #20-02 – 65 Lake View Ave. – Louis Allen, Owner/Applicant – For an as-of-right determination for use incidental to maintenance of a residential property.

Owner/Applicant Louis Allen presented an application for the repair of the existing cement base upon which cement pillars for a patio rests. Over time, the cement base has developed cracks which he would like to fill and stabilize while the Lake's water level remains low.

M/S/C: Phillips/Khan-Bureau, to approve Application IWCC #20-02 – 65 Lake View Ave. – Louis Allen, Owner/Applicant – For an as-of-right determination for use incidental to maintenance of a residential property. Discussion: None. Voice vote, 6-0, all in favor.

7. Public Hearing(s) – none

8. Old Business

a. 14 Fett Road

Chairman Natoli reported that he discussed the issue regarding the drainage on the road with the Town Engineer, who visited and reviewed the catch basin and the site. He briefly reviewed the issue, stating that the existing culvert leads down into the ground to a creek and under the street and directly into the Lake. Due to its location, the Town Engineer did not feel that the culvert is causing the issue at hand, but did agree that the culvert is creating an issue. As such, the Town is in the process of creating a more permanent culvert to divert the water into the basin. He also proposed the possibility of installing a curtain drain, which would require the review and approval by the Town Sanitarian due its proximity to the septic system. He noted that any proposed solution(s) would only help to mitigate and alleviate the issue and would not provide a permanent solution.

Jim McIntyre, 8 Fett Road, further reviewed and explained the proposed plan to divert the water into the beach area dry well and leach into the Lake through stones. Part of the issue is the removal of a grassy area on one of the properties that absorbed much of the water. And while grass seed has been planted to restore the area, it was not successful. As the result, hay bales were placed to prevent any further erosion.

Steve Kreft, 36 Gardner Lake Heights, felt that the Town Engineer is not considering the fact that the erosion is being caused during periods of heavy rain, adding that the water is draining on to the Klein's property located at 11 Fett Road and into the Lake.

Commissioner Bradley expressed her concerns regarding the system's ability to capture the water that is traveling at a high velocity and the proposal of a dry well which could cause the grates to become blocked and cause a secondary problem. She also stated that the proposed plan is a concept plan and requested that a more substantial (engineered) plan be submitted to the Commission. Commissioner Khan-Bureau also stated the importance of taking into account the maintenance of the system so as to avoid the gathering of sedimentation.

ZWEO Allen clarified that the issue was reviewed and investigated by the Town Engineer, who determined that the water runoff from Gardner Lake Heights is *not* contributing to the ongoing violation on Fett Road. As such, the onus is on the property owner to apply for a management plan to manage the stormwater and mitigate the ongoing violation at 14 Fett Road.

Andrea Klein, 11 Fett Road, stated that the issues confronting the property(ies) is not unique to the residences located on Fett Road as runoffs and divots are visible at all of the lakefront properties and it would be unreasonable for the Gardner Lake Association (GLA) to submit a complaint for all of the properties. In conjunction with the Town Engineer's proposed plan, she volunteered to plant grass and plantings on her property in an effort to help slow down the erosion and suggested the issue be revisited after a sufficient period of time to gauge its progress. She did not feel it would be conducive to request the 28 members of the Association to fund the costs for an engineer to devise a plan to deal with the erosion.

Commissioner Khan-Bureau was agreeable to her solution, suggesting that taller grasses or grasses that are more conducive to the area be planted in the area.

Chairman Natoli felt that their efforts will be multi-faceted and expressed his agreeance with the Town Engineer's proposed plan. In response to Commissioner Bradley's request for a report, he stated that the Town Engineer would only be able to submit a report regarding the culvert and whether the water runoff is contributing to the violation. Commissioner Bradley expressed her concerns and stated the need to consider, review, and fully understand the entire system in order to understand and gauge the effectiveness of the proposed solution. Chairman Natoli reiterated that it is not under the purview of the Town or the Town Engineer, unless independently hired to do so, to review and/or resolve the issue beyond the culvert.

Commissioner Khan-Bureau reiterated her agreeance with the proposal to have the Town fix the drainage system, as proposed by the Town Engineer, and have the property owner(s) install the plantings and re-assess the issue at a later time; should the issue not be mitigated, an engineer would need to be hired by the property owner(s) to review the area and design a plan.

In response to Commissioner Phillips, the issues include road runoff, the disintegration of the boat ramp, the depositing of such ingredients as asphalt into the lake, and erosion.

ZWEO Allen stated that the violation has been continuing for nearly two years and little to no efforts have been made by the property owner(s) to remedy the issues. As such, he recommended that an order be made and, should the order not be complied with, further enforcement action be taken.

GLA Treasurer Peter Litchfield agreed that the issue has been ongoing for nearly two years, but added that, per the minutes, the Commission agreed to speak with the Town to determine what they could do to address the issues. As such, the Association agreed to hold off on making any plans until the Town's solution(s) was properly gauged and reviewed. Should the onus be on them, the Association will vote to either hire an attorney or an engineer.

Chairman Natoli stated the three options that are currently available:

1. The Town conducts the work, as proposed by the Town Engineer
2. The Town conducts the work, as proposed by the Town Engineer, and plant plantings
3. The Town conducts the work and a bioswale is created

Chairman Natoli reiterated that anything beyond the review and approval of the Town Engineer's report and subsequent installation of the drainage system, is not under the purview of the Commission. The violation is located on private property and, as such, it is the responsibility of the property owner(s) to remedy the problem(s). He proposed the possibility of scheduling another site walk to review the area in its current state in light of the Town Engineer's proposed solution. Commissioner Bradley reiterated the importance of determining the root of the problem and viewing the entirety of situation in order to better resolve the matter.

The origin of the issue, complaint, and subsequent actions were briefly reviewed and discussed. It was clarified that the condition of the area has deteriorated due the lack of maintenance exacerbated by the violation on the adjacent property. Commissioner Natoli agreed to obtain a report from the Town Engineer for review. Commissioner Khan-Bureau opined that it would behoove the property owners to plant the plantings, as previously proposed and discussed.

b. 76 Shingle Mill Road

Property Owner Arthur Maurice reported that a representative from the Army Corps of Engineers reviewed the property and was satisfied with both the Commission and their Soil Scientists' remediation plans, but recommended that the branches in the area be removed and chipped. Mr. Maurice stated that approximately 90% of the soil has been replaced, additional grass seed has been ordered, 42 bales of straw have been received, and the silt fence is secure and stable. The plantings will be ordered, as recommended by the Soil Scientist.

Chairman Natoli expects that a report will be generated and received by the Army Corps of Engineers, which will be forwarded to the Commission for review and discussion. He reported that he discussed the issue with the Eightmile River Wild & Scenic Watershed Committee and Program Director Patricia Young did not feel that a rapid bio-assessment would be necessary at this time, but felt that it was important to plant the plantings.

9. Wetlands Enforcement Officer's Report – *no report*

10. Correspondence – *none*

11. Plus Deltas/Announcements

RCOZ Regulations Update – Chairman Natoli reported that the Eightmile River Wild & Scenic Watershed Committee has retained two prominent land attorneys, one of whom is the original attorney who drafted the original Plan. They have also discussed the regulation with the Town Planner. Commissioner Khan-Bureau, who also serves on the Planning & Zoning Commission, discussed the proposed amendments, stating that the intent of the regulation remains untouched. The purpose of the amendments are to clarify the regulation and eliminate any redundancies. The ZWEO and Commission raised their concerns regarding the status of the agriculture restrictions as well as any changes that might place the River's Federal designation as a Wild & Scenic River in jeopardy. Discussion ensued regarding possible avenues the Commission could take should the Commissioners feel that the amendments are not be agreeable to them. The proposed amendments will be provided to the Commissioners for review.

Commissioner Phillips felt that this evening's discussion regarding the violation on Fett Road should have been handled differently, adding that any comments the public might have should only be accepted during a Public Hearing.

12. Adjournment

M/S/C: Khan-Bureau/Phillips, to adjourn the meeting at 8:41 p.m. Discussion: None. Voice vote, 6-0, all in favor. Meeting Adjourned.

Respectfully Submitted by:

Agnes T. Miyuki, Recording Secretary for the Town of Salem