The minutes submitted below have been filed in accordance with Section 1-225 of the CT General Statutes. They are subject to final approval with or without amendments by a vote of the Inland Wetlands & Conservation Commission. Approval and any such amendments will be detailed in subsequent minutes.

1. Call to Order
   Vice Chairperson Khan-Bureau called the meeting to order at 7:03 p.m.

2. Roll Call/Seating of Alternates
   Present were Vice-Chairperson Diba Khan-Bureau, Secretary Roger Phillips, Edward Natoli, Jr., Commissioner Jim Mulholland, and Alternate Commissioner Jim Miller (seated). Absent were Chairperson Kimberley Bradley, Commissioners Jennifer Messervy and Dean Wojcik and Alternate Commissioners Larry Moore and Michael Smith. Also present was Wetlands Enforcement Officer (WEO) Matthew Allen.
   M/S/C: Natoli/Mulholland, to seat Alternate Commissioner Jim Miller for Full Member Commissioner Kimberley Bradley. Discussion: None. Voice vote, 4-0, all in favor.

3. Approval of Agenda
   M/S/C: Mulholland/Natoli, to approve the Inland Wetlands & Conservation Commission Agenda for August 1, 2022. Discussion: None. Voice vote, 5-0, all in favor.

4. Approval of Minutes:
   a. May 2, 2022 Regular Meeting Minutes
      M/S/C: Natoli/Mulholland, to approve the Inland Wetlands & Conservation Commission Regular Meeting Minutes of May 2, 2022. Discussion: None. Voice vote, 5-0, all in favor.

5. Public Comments – none

6. New Business
   a. IWCC #22-01 – 470 Darling Road – Salem Land Trust, Owner/Applicant – As-of-Right Determination for Bog Bridges
      Salem Land Trust (SLT) President Linda Schroeder and Member Tony Griggs presented the application for an As-of-Right Determination for the installation of bog bridges at Darling Road Preserve (470 Darling Road). SLT President Schroeder stated
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that, due to issues and increased use of the trail by mountain bikers, the Salem Land Trust is proposing the placement of bog bridges to prevent any further erosion. Information and photographs depicting the areas the bridges would be placed and the type of wood that would be utilized were presented to the Commission for review.

Length of Bridges (Commissioner Khan-Bureau) – The bridges can be as long as 16’.

Estimated Longevity of Bridges (Commissioner Miller) – The bridges would be constructed of two-inch thick pressure-treated wood using micronized copper. The supporting base will be constructed of 4” x 4” wood.


b. IWCC #22-02 – 18 Eden Park Drive – Wilson Family Trust, Owner; Joe Wren, Applicant – Permit to work in URA (Upland Review Area) for a proposed residential accessory building

Commissioner Mulholland recused himself from the Application and exited the room at 7:13 p.m.

WEO Allen stated that no decision on the application should be made this evening. The Commission’s task this evening is to determine whether a Public Hearing and/or a site walk would be necessary. Should no petition be submitted by the public for a Public Hearing, the Commission may make a decision. A brief discussion ensued regarding the Commission’s previous decision to not delegate such determinations to the Wetlands Officer, per the Salem Inland Wetlands and Watercourses Regulations, Section 12.1. Commissioner Natoli stated the possibility of hiring a third party to review the property.

Joe Wren, P.E., Principal, Indigo Land Design, LLC, presented the application and the site plan of the property which is just under 2 acres. Depicted on the site plan was the location of Gardner Lake; the wetlands, which are not physically connected to the Lake; the Upland Review Area, and; the proposed 24’ x 36’ accessory building. The majority of the work will be occurring in the upper area of the Upland Review Area. Part of the area will be cleared for grading and will be revegetated. The soil tests have indicated that the soils are very well-draining sands and gravel, allowing the runoff to be absorbed in the underlying soil with very minimal overlay and runoff into the nearby wetlands. The lower level of the accessory building will be used as a garage for the storage of a boat and the upper level will consist of a workshop, art studio, and bathroom. The existing well will be used and a new septic system will be installed to accommodate the bathroom.
**Wetlands Overflow** (Commissioner Miller) – Though unknown, it is surmised that any overflow of water from the wetlands drains into the Lake. As far as he is aware, the wetlands are not spring-fed. The wetlands were recently surveyed and flagged by Soil Scientist Rich Snarski.

**Possibility of Placing the Accessory Building outside the Upland Review Area** (Commissioner Khan-Bureau) – The location of the building is limited by the topography of the property, the existing overhead wires and utility pole, and access to the proposed garage. Though their preference is to allow gravity to direct the water waste, the leaching field could be relocated and a pump can be installed.

**Vegetation** (Commissioner Phillips) – The area is sparsely wooded with, primarily, hemlocks and less than a half-dozen large trees.

Discussion ensued regarding the location of a building with its own septic system that is entirely located in the Upland Review Area. Commissioner Natoli expressed his trepidation with the construction of what could be construed as an additional residence. WEO Allen stated that, per the Zoning Regulations, only one principal building per lot is allowed. The property would, most likely, not be subdividable. He also reminded the Commission that, per current state case law, a wetlands application can only be denied if the Commission can show that the wetlands would be significantly impacted. Applicant Wren stated that the building would be 3’ above water level, explained the filtration system, and reiterated the quality of the soil which would minimize any runoff into the wetlands.

The Commissioners agreed to schedule a site walk on Thursday, August 11, at 9:00 a.m., to conduct a site walk. The locations of the proposed building and septic system will be clearly marked.

*Commissioner Mulholland returned to the meeting at 7:49 p.m.*

7. **Public Hearing(s)** – *none*

8. **Old Business** – *none*

9. **Wetlands Enforcement Officer’s Report**

   WEO Allen reported that the Planning & Zoning Commission denied the application submitted by 45 Forest Drive, LLC, for the Special Agricultural Overlay Zone for the purpose of operating a special event facility, with associated overnight lodging. The application was presented to the Commission, who voted to approve the Chairperson to draft a letter expressing their concerns. No letter was submitted to the Planning & Zoning Commission.
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Per the Commission’s request, he reviewed and reported on the activity that had/has been taking place at Salem Land Trust’s Woodland Warbler Preserve. It appears that a spillway for the pond through the existing culvert is being periodically cleared with hand tools. The activity appears to be a non-regulated use. The area is being cleared to allow the stream to flow and avoid any flooding caused by the beavers. Discussion ensued regarding the process. Commissioner Natoli stated the importance of submitting an application before any work being conducted in the wetlands. SLT President Schroeder stated that she had consulted with the Chairperson regarding the process and was informed that no application was necessary and to inform her that the proposed activity would be taking place. WEO Allen stated that the Commission’s lack of consistency in its communications with the public has resulted in misunderstandings regarding the process, causing issues for applicants/residents. It has also undermined his duties as the Wetlands Officer and made his job very difficult. All items to be discussed by the Commission should be noticed to the public via the agenda. Vice Chairperson Khan-Bureau stated that the Commission will work with the Salem Land Trust.

Extensive discussion ensued regarding the letter to the Planning & Zoning Commission that was not drafted/sent and the Wetlands Officer’s role. Commissioner Natoli felt that protocols should be in place going forward. Commissioner Phillips, who has served on the Commission for 25 years, stated that it has always been his understanding that the WEO has the authority to conduct certain tasks for the Commission. Because he was not present for the meeting during which the item was discussed and voted upon, he requested that the item be placed on the next agenda. WEO Allen stated that, per Section 12.1 of the Regulations, the Agency, i.e., Commission, may delegate its duly authorized agent, i.e., the Wetlands Enforcement Officer, the authority to administratively decide which applications should come before the Commission. Without that authority, all applications would be presented to the Commission.

M/S/F: Phillips/Natoli, to place the following item on the Agenda:

Delegation of authority to the Duly Authorized Agent to make determinations, per Section 12.1 of the Salem Inland Wetlands and Watercourses Regulations

Discussion: Commissioner Natoli expressed his dismay with the Salem Land Trust, whom he informed during their last meeting to compile their requests for As-of-Right Determinations. Extensive discussion ensued regarding the authority of the Wetlands Agent to make such determinations, a duty that was previously stripped by the Commission. Vice Chairperson Khan-Bureau reminded the Commission that the issue arose due to the bridge that was installed along the Harris Brook Trail in which the Commission disagreed with the WEO’s determination. Commissioner Mulholland recalled that the
Commission agreed to delegate the WEO to review and approve any activities conducted within the Upland Review Area. He also recalled that the Chairperson, upon investigating the matter, found that the Commission did not have the authority to delegate its Duly Authorized Agent the right to make As-of-Right Determinations, per State Statutes. Upon further review, he stated that the wording in the State Statutes differs from the Regulations. WEO Allen disagreed, stating that the Town’s Regulations are based on the State Statutes. WEO Allen stated that, to provide its Duly Authorized Agent with certain authorities and not others, the Commission would need to revise the Regulations to ensure that all applications are reviewed equally. Vice Chairperson Khan-Bureau proposed the Commission consult with the Town Attorney. Voice vote, 1-4. Voting in Favor: Commissioner Phillips. Voting in Opposition: Commissioners Miller, Mulholland, Natoli, and Khan-Bureau.

M/S/C: Mulholland/Natoli, to request the Town Attorney for a legal opinion as to whether the Town’s Regulations or State Statutes allow the Commission to delegate to its Duly Authorized Agent with the authority to make As-of-Right Determinations. Discussion: Discussion ensued regarding the Town’s Regulations and State Statutes, which the Regulations must comply with. Voice vote, 4-1. Voting in Favor: Commissioners Miller, Mulholland, Natoli, and Khan-Bureau. Voting in Opposition: Commissioner Phillips.

The Chairperson will inquire with the Town Attorney for a legal opinion on the matter.

10. **Correspondence** – none

11. **Plus Deltas/Announcements**
    The Commissioners agreed to change Plus Deltas to Critiques.

12. **Adjournment**
    M/S/C: Phillips/Miller, to adjourn the meeting at 8:25 p.m. Discussion: None. Voice vote, 5-0, all in favor.

Respectfully Submitted by:

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

A VIDEO RECORD OF THE MEETING CAN BE FOUND ON THE TOWN’S WEBSITE LOCATED UNDER BOARDS & COMMISSIONS – MEETING VIDEOS