

**TOWN OF HADDAM
INLAND WETLANDS COMMISSION
REGULAR MEETING
ONLINE VIA GOTOMEETING
MONDAY, 19 OCTOBER 2020
UNAPPROVED MINUTES
*Subject to Approval by the Commission***

ATTENDANCE

A	Paul Best, Secretary
X	Curt Chadwick
X	Jeremy DeCarli
X	Dan Iwanicki, Vice Chairman
X	Joe Stephens
X	Mark Stephens, Chairman
X	Thomas Worthley
X	David Costa, Alternate
X	Gail Reynolds, Alternate – Seated
X	Jim Pukka, Wetlands Enforcement Officer
X	Bunny Hall Batzner, Recording Clerk

1. Call to Order & Attendance/Seating of Alternates

Mr. M. Stephens, chairman, called the meeting to order at 7:03 p.m. All regular members as well as Mrs. Reynolds, alternate member, were seated.

2. Additions/Corrections to the Agenda

There were no additions/corrections to the agenda.

3. Public Comment

There was no one from the public who made comments at this time.

4. New Business

A. 5 Ledge Road, Hidden Lake – Installation of New Dock – Map 36, Lot 7-12

Sandra DiRuzza, owner/applicant, was present.

Ms. DiRuzza stated she purchased the home the end of September 2018 and as there is no pre-existing dock, would like to install one. Mr. Puska reported he had emailed all the information to the Commissioners. Mr. M. Stephens stated the information did not come through clearly; and asked Mr. Puska to explain the proposal.

Mr. Puska asked Ms. DiRuzza if the contractor would be available for the meeting. Ms. DiRuzza stated the contractor had a conflict; however, if there were any questions, he could be contacted. Mr. Puska asked if the Commission had any questions.

Mr. Iwanicki stated the site plan shows the existing house and the boundary for the erosion and sediment (e&s) controls, but does not show the proposed dock and the second site plan is very light in coloration making it difficult to see what is happening. Mr. Puska stated the dock itself will be in the water directly behind the house. The dock, which will be permanent, will be in an L-shape - one section 6 feet by 10 feet and the other 6 feet by 8 feet. Mr. Puska also stated due to the lake being drawn down, it's an ideal time to do the work. Mr. Iwanicki clarified that the piers

will actually be in the lake. Mr. Puska stated yes. Ms. DiRuzza stated yes; and the piers will be made out of pressure treated lumber.

Mr. Chadwick asked if docks on Hidden Lake are normally permanent, as he thought they were taken out at the end of the season. Mr. Puska stated they can be either or. Mr. Chadwick asked the main difference between a permanent and a seasonal dock. Mr. Puska stated seasonal docks are usually made out of aluminum, depending upon their size it can be difficult to remove, and the damage that can occur when frozen in place. Mr. Puska stated Ms. DiRuzza proposal is for a permanent dock that will be there through the duration of the seasons noting it is a personal preference as to whether a property owner wants a temporary or permanent dock.

Mr. Costa asked if there are any square footage limits or how far the dock can extend into the water. Mr. Puska stated no. Mr. Iwanicki asked if the Hidden Lake Association (HLA) was involved in this matter. Mr. Puska stated yes, all applicants take their proposals to the HLA first. Mr. Iwanicki asked if the HLA had acted on the proposal. Ms. DiRuzza stated she spoke to Jay Cassella, President, HLA, who had indicated he was fine with the plan and directed her to come before the Commission.

Mr. Iwanicki stated he believes this is the first dock that is actually going within the body of water that has come before the Commission. Mr. M. Stephens stated he remembers the Commission approving a dock within a lake on the Waterman property. Mr. DeCarli stated he believes the Commission approved one about a year and one-half ago.

Mr. M. Stephens asked if the dock will be going out ten feet from a bulkhead. Ms. DiRuzza stated she didn't know if it would be called a bulkhead at the end of the property. Mr. M. Stephens asked if finsmarine.com would be installing the dock. Ms. DiRuzza stated yes.

Mrs. Reynolds stated the supporting documents received are unreadable and is unsure what is being proposed. Mr. M. Stephens reviewed one of the drawings showing the measurements of the dock. Mr. M. Stephens asked if Mr. Puska could get better drawings from the contractor.

Mr. J. Stephens spoke in regard to the poor quality of the audio. A number of attendees turned their video off. Mr. M. Stephens was aware of issues with his audio.

Prior to the vote, Mr. Iwanicki stated there is still a delay in the audio; and asked if there is any discussion pertaining to the motion. Mr. Iwanicki stated the Commission is depending on Mr. Puska as he has seen the plans; and asked if the plan is reasonable and prudent. Mr. Puska stated for what is proposed yes, it does; and that he will make a point to speak to the contractor prior to work beginning. Mr. Iwanicki thanked Mr. Puska. There was no further discussion.

MOTION: Tom Worthley motioned to approve the application for the installation of a dock located at 5 Ledge Road (Hidden Lake). See map on file in the Land Use Office. **Conditions:** 1. Standard Permit Conditions. 2. Special Conditions/Modifications – No. Joe Stephens second. Mr. M. Stephens called for the vote: M. Stephens – yes; Iwanicki – yes; DeCarli – yes; Chadwick – yes; J. Stephens – yes; Reynolds – yes; and Worthley – yes.

5. Old Business

a. Continued Discussion of Amended Application for 81 Arkay Drive, Applicant: Michael Sciascia

Michael Sciascia, owner/applicant; Jamie Sciascia, owner; Bill Cowan, President, Haddam Land Trust (HLT); and Paul Geraghty, Esq., representing the Haddam Land Trust, were present.

Mr. M. Stephens reported due to there being no agreement between the Sciascias and the HLT, the special meeting that was called was cancelled. Mr. M. Stephens stated he spoke to Michael Harkin, P.E., who will continue to remain involved, but will not do anything further until there is

an agreement between the two parties. Mr. M. Stephens stated the Commission probably should not have been entertaining a motion based on an idea for a plan and the Commission's first objective is to minimize intrusion into the wetlands as well as stabilizing any property that will runoff. Mr. M. Stephens stated he does not believe the Commission should be looking at the installation of a wall. To put in a three foot wooden wall that will rot will not do anything for the longevity of the property and questioned why break up something that is already set. Mr. M. Stephens stated the slope has been there for three years and hasn't moved, but it should be stabilized by vegetation - bushes, grasses, etc., and noted the property lines are very clear.

Mr. M. Stephens stated that Mr. Cowan's objections were spot on as the Commission did not have a true plan for this wall. If there is no wall, it cannot rot; and if everything is green, the slope will remain stable. Mr. M. Stephens stated he would like to see a design from Mr. Harkin that does not include a wall, but uses the slope as he was going to and it's assumed that it will include a little bit of runoff from the house going into a specific area. Mr. M. Stephens stated he hopes the HLT would see it fit to stabilize the slope a bit more and leave it as it is. Mr. M. Stephens stated only 75 feet of the 200 feet length have two little areas that have incursion. Everyone is aware that the original plan would have sloped it back differently; and although feasible, it is not prudent. Mr. Harkin has indicated that he is still willing to do a proper plan and believes Tom Metcalf, P.E., for the HLT, will review.

Mr. M. Stephens stated the property is not in danger, the property is what it is, it's been pinned, and he'd like to see the slope green and stable. Therefore, Mr. M. Stephens hopes the HLT will allow this activity 1) not go any further than the e&s controls and 2) that it would be green again with another whole year to see if anything sloughs off. Mr. M. Stephens noted the Commission will not be making a decision.

Mr. M. Stephens noted his involvement with the HLT and how wonderful the Trust is in preserving land.

Mr. Geraghty stated that he and Mr. Cowan had discussed the matter earlier today as well as last week in terms of where the HLT will go. Mr. Geraghty also stated he had spoken to Mr. Sciascia approximately two weeks ago addressing the HLT's concerns if the modified plan were considered and the steps the HLT would like to see taken. Mr. Geraghty stated he believes both he, Mr. Sciascia, and Mr. Cowan agree that Mr. Sciascia is unable to implement the original approved plan; and although the status quo is not ideal, it is probably the best of the three possible alternatives.

Mr. Geraghty stated the HLT's fear is if the modified plan is implemented it would render the slope unstable and the biggest concern of the HLT is it sloughing off. Mr. Geraghty stated the HLT is not acquiescing about the material on the property, but would be o.k. with the status quo obviously of the understanding if there are issues down the road that the Commission itself would take appropriate action to enforce its regulations.

Mr. Iwanicki asked Mr. M. Stephens what exactly the Commission is supposed to be doing at tonight's meeting – reviewing the modified plan, looking at the original permit. Mr. Iwanicki stated there is a violation involved here, wetlands were destroyed, and there's a problem with the adjoining property owner. Mr. Iwanicki stated if there was a house with people living in it where this material has been deposited, would not the Commission be a lot more stringent in what was expected of the property owner that put that material next to someone's house. Mr. Iwanicki stated he doesn't see where the Commission is going with this as he sees no direction whatsoever.

Mr. M. Stephens stated the modification plan wasn't a real plan, but rather an idea that Mr. Harkin came up with along with Mr. Sciascia to try to get the small amount of fill off the HLT property. Mr. M. Stephens stated this is a unique situation and a great deal different from having a house abutting the Sciascias' property. This matter has been going on for three years and the plan should be a proper modification plan developed by Mr. Harkin that will include the items that will

get the slope stabilized, vegetated, and staying in one place. Mr. Sciascia is not able to do a \$35,000 to \$50,000 plan making the plan not feasible or prudent; therefore, the Commission is looking for feasible and prudent alternatives. Mr. M. Stephens briefly talked about a previous issue where the Commission allowed a swamp to regenerate without further disturbance. Mr. M. Stephens asked what the Commission's alternative is. Mr. M. Stephens stated it's his hope that the Commission will get a plan that will revegetate and stabilize the material where it is, and again noted there is very little intrusion on the HLT property. Mr. M. Stephens stated he would prefer not having a wall constructed and would like a clear plan that works for both parties and creates a better environment for the wetland as well as both properties.

Mr. Iwanicki stated there is a permit that is already outstanding (given in March 2019) and has been discussed in regard to modification over the last two meetings. Mr. Iwanicki stated it is not a question of property not being threatened at this time, but rather a matter of wetlands that were destroyed and filled in; and what has been created is the potential for additional damage to wetlands. Mr. Iwanicki stated what's being said is it's o.k. to do the work, let the area regenerate, and continue doing what you're doing. It appears a precedent is being created. Mr. Iwanicki also stated he's not happy with what's taken place, it will not go away, and if the slope sloughs off years down the road, the property owner will need to take care of the matter (this has to remain on the land records).

Mr. M. Stephens asked Mr. Iwanicki if he had seen the property as there's only been minimal destruction – no trees taken down, no major filling, no pushing water out – there was and is an understanding that soil types under some of the material might be wetlands, but it's unclear. Mr. M. Stephens stated this is a unique problem and there will be no setting of precedent. Mr. M. Stephens stated he would not call it a destruction of a wetland, but rather an encroachment of a small amount of fill of two small areas that can be seen in the plan that go past the border. Mr. M. Stephens stated yes, Mr. Sciascia should have had a plan to begin with and yes, he's in violation, but three years later what is the best way to move forward. Mr. M. Stephens stated the modification plan that was discussed was not a proper modification plan. Mr. M. Stephens reviewed what he had previously discussed in regard to Mr. Harkin continuing to work on the matter and the revegetation of the slope, water runoff from the house going into a proper dispersal area, and the need for Mr. Metcalf to also review a proper plan.

Mr. Worthley stated it appears the Commission saw a revised plan with a wooden wall, but is unclear as to whether the Commission approved it or not. Mr. M. Stephens stated no, there was no approval for a wooden wall. A brief discussion followed in regard to the development of a planting and stabilization plan; and if the HLT would agree to it, moves forward at that point. In regard to the loss of wetlands square footage, Mr. Worthley spoke about restoration in another area (a bit of a tradeoff) and perhaps this too could be discussed amongst the parties.

Mr. M. Stephens asked Mr. Geraghty to clarify his statement of status quo. Mr. Geraghty stated the proposed modified plan was not something the HLT could accept because it had specific risks from the HLT's perspective. Mr. Geraghty stated there may be some issues down the road as there are some trees growing up through the fill and there was some wood used to create the embankment. Mr. Geraghty stated if anything is done based on the modified plan, it would have a greater likelihood of some sort of failure down the road. Mr. Geraghty also stated the Sciascias do not have the finances right now to do the originally approved plan and the HLT is trying to address the reality of that as well. Mr. Geraghty stated in regard to Mr. Worthley's comment about remediation elsewhere, it doesn't make sense because what's done is done; and if they do not have the money to do the work, why force them to do work elsewhere. Mr. Geraghty stated the idea is that the Commission will keep the Notice of Violation on the land records in the event there is an issue in the future noting the HLT has not waived any rights with respect to that. Mr. Geraghty stated leaving the slope as it is perhaps with some plantings may be the most sensible thing from the standpoint of the HLT and the Sciascias.

Mr. Chadwick stated if the HLT and Mr. Harkin are agreeable to create another plan, why would the Commission not be. Perhaps plan three will be the one that works.

Mr. Cowan stated his concern is that the slope will fail and when it fails, if it fails, nobody here – Mr. Sciascia or the Commission - will be responsible for it as neither party is taking the risk that it is going to happen. Mr. Cowan stated if it fails, the material will slide onto the HLT property and into the wetlands. Mr. Cowan stated it will be impossible to clean up at that point or it will be extremely expensive. Mr. Cowan asked how the HLT will be protected from that happening. Mr. Cowan stated Mr. Sciascia is responsible for the material there and asked the Commission to make him responsible for the material; and then if it fails, the HLT won't have to take as much trouble to get the material removed or remediated from the property. Mr. Cowan stated he believes there will be legal problems in the future should the Commission sign off on the matter and walk away from it. Mr. Cowan stated if the Commission orders the material be removed and Mr. Sciascia doesn't do it, it will be on the land records that it must be removed.

Mr. M. Stephens asked Mr. Cowan if he's o.k. with the material sitting there unstabilized by vegetation noting the work cannot be done, it's not being done, and the land owner cannot do it, as it's imprudent. Mr. M. Stephens stated he would rather HLT to allow Mr. Sciascia to stabilize what he has there and with the help/work of the engineers (Harkin and Metcalf). Mr. M. Stephens also stated he believes the slope should be stabilized as it exists and keep the Letter of Violation on the land records. Mr. M. Stephens again stated he doesn't believe the wall should be installed.

Mr. M. Stephens' computer experienced serious technical difficulties at this time (8:03 p.m.). Mr. Puska contacted Mr. M. Stephens by phone in order for him to rejoin the meeting (8:07 p.m.).

Mr. Geraghty stated the HLT is looking for some sort of teeth in this matter that would provide that if there was some sort of problem in the future that the Sciascias would be responsible for that. Mr. Geraghty stated the HLT does not want to get in a lawsuit with the Sciascias as it doesn't do anyone any good. Mr. Geraghty stated any plan that Mr. Harkin can develop that shows plantings or stabilization in it would be good and the Commission could make conditions of the approval that would satisfy the HLT in terms of enforcement should there be a problem down the road.

Mr. Puska stated Mr. Harkin was not able to attend tonight's meeting due to a conflict, but he also does not want to come back before the Commission until there's some form of agreement between the HLT and the Sciascias. Mr. Puska will bring the concerns voiced tonight to Mr. Harkin's attention.

Mr. Geraghty asked Mr. Cowan if he was in agreement. Mr. Cowan asked for specifics. Mr. Geraghty stated if there was a planting plan to stabilize the slope with conditions protecting the HLT via the Commission. Mr. Cowan stated he's primarily concerned with the protections that go into the future so if there is a problem HLT is protect (his primary goal) and the only way he sees this happening is that it ends up on the land records. As far as stabilization (dressing it up with grass), he doesn't care because that's not really his issue.

Mr. Iwanicki asked Mrs. Batzner if the meeting was still being recorded with Mr. M. Stephens being offline or would she have to take more detailed notes. Mrs. Batzner stated the meeting was still being recorded, but a notice indicated that it would only do so for one hour (leaving approximately 45 minutes left). Mr. M. Stephens stated he was trying to get back online.

Mr. Sciascia asked Mr. Cowan if he and Mr. Geraghty could decide on what legally the HLT would want in writing on the land records and/or part of the plan that will be put forth so the ball can get rolling. Mr. Cowan stated that would be up to his attorney. Mr. Geraghty stating he would need to speak to Matt Willis, Land Use counsel for the Commission, to see if he's comfortable with it, but if conversations with the Sciascias can be held, something can be structured

that can be dovetailed into the permit so that there's a plan for stabilization with conditions going forward if something were to happen. Mr. Geraghty stated this doesn't need to be discussed tonight, but can be discussed this week with Mr. Sciascia.

Mr. Puska stated this sounds like a good plan to move forward with by putting Mr. Geraghty in contact with Mr. Sciascia, Mr. Harkin, and Mr. Cowan. Mr. M. Stephens stated it sounds good. At 8:17 p.m. Mr. M. Stephens rejoined the meeting via online. Mr. M. Stephens iterated that Mr. Harkin will not do anything further until there's an agreement between the two parties.

Mr. Worthley stated it appears as if the Commission can sit by while a plan is drawn up that the Sciascias and the HLT agree to, or their attorneys agree to, and that the Commission may also be able to address Mr. Iwanicki's concern that the Notice of Violation remain on the land records so that should there be a failure within the future someone would be able to see the Notice of Violation and it would be the responsibility of whoever owns the property to make restitution. Mr. Worthley asked if his understanding was correct. Mr. Geraghty stated that is where the HLT is looking to head.

Mr. M. Stephens tabled the matter stating without an agreement to get on the HLT property, Mr. Harkin will not put up 40 hours of pro bona work. Mr. M. Stephens asked if there were any objections.

Mr. J. Stephens stated there has to be an agreement between the two parties to come up with the legal terms to outline the responsibility of future failure so Mr. Harkin can put together a stabilization plan and any runoff that may cause a potential problem going forward.

Mr. and Mrs. Sciascia, Mr. Geraghty, and Mr. Cowan all left the meeting at 8:21 p.m.

This matter has been tabled to allow the Sciascias and the Haddam Land Trust an opportunity to discuss the issue amongst themselves and return to the Commission with a resolution.

b. Forestry Regulations Discussion Continued

Mr. M. Stephens thanked Mr. Iwanicki for all his hard work compiling the draft forestry regulations (Exhibit A, 15 pages – copy on file in the Town Clerk's Office with the minutes and in the Land Use Dept.). The draft forestry regulations were emailed to all Commissioners on 10/14/2020.

Mr. Iwanicki thanked Mr. M. Stephens for the compliment; and stated Mr. Worthley would need to look at the document as he is more familiar with the type of activity that it addresses. Mr. Iwanicki stated he looked at it as a document for the future and is aware that it's too long. Mr. Iwanicki also stated that he's not familiar with current fees or the Gateway Commission activity involved. Mr. Iwanicki asked that everyone review the document and see if it's worth going forward with it.

Mr. Worthley stated he hasn't had an opportunity to review the document, but will do so and provide comments if necessary.

Mr. M. Stephens asked Mr. Puska when the document could be sent to Nick Zito, Forest Practices Act Forester, Division of Forestry, Bureau of Natural Resources, CTDEEP, for his review and comments. Mr. Puska stated once the Commission reviews the proposed document and everyone is in agreement with it, he would send it to Mr. Zito.

The forestry regulations are to be a standing agenda item until completed.

6. Wetland Enforcement Officer's Report

Mr. Puska reported on the following:

378 Hidden Lake Road, Repair to Existing Retaining Wall – Agent Approval – This property is on the lake itself. A deteriorating existing retaining wall that is not within the lake is in need of repair. Wall is approximately 3 feet high and 60 feet long and runs along the back property line.

Lou Milardo, 240 Turkey Hill Road, Construction of an Outbuilding – Agent Approval – Construction of an outbuilding for the storage of equipment related to his business. Structure will not be in the wetlands, but is within the proximity of the upland review area.

5 Ledge Road, Hidden Lake – Will contact the contractor as to how the work will be done.

7. Approval/Correction of Minutes

Correction to the 14 July 2020 special meeting minutes – page 4, first paragraph, second line – change “Mr. M. Stephens started” to “Mr. M. Stephens stated”.

MOTION: Dan Iwanicki motioned to approve the 14 July 2020 special meeting minutes as amended. Joe Stephens second. Motion carried with Mr. DeCarli and Mr. Costa abstaining.

MOTION: Dan Iwanicki motioned to approve the 20 July 2020 regular meeting minutes as submitted. Curt Chadwick second. Motion carried with Mr. Costa abstaining.

MOTION: Dan Iwanicki motioned to approve the 17 August 2020 regular meeting minutes as submitted. Curt Chadwick second. Motion carried with Mr. DeCarli and Mr. Worthley abstaining.

Correction to the 21 September 2020 regular meeting minutes – page 1, Attendance block, Matthew Willis, Esq. – change “Left at 7:p.m.” to “Left at 7:48 p.m.”.

MOTION: Dan Iwanicki motioned to approve the 21 September 2020 regular meeting minutes as amended. Curt Chadwick second. Motion carried with Mr. DeCarli abstaining.

8. Adjournment

MOTION: Joe Stephens motioned to adjourn. Curt Chadwick seconded. Motion carried unanimously.

The meeting was adjourned at 8:33 p.m.

Respectfully Submitted,

Bunny Hall Batzner

Bunny Hall Batzner
Recording Clerk

The next regular meeting is scheduled for Monday, 16 November 2020.