

**TOWN OF HADDAM
INLAND WETLANDS COMMISSION
REGULAR MEETING
ONLINE VIA GOTOMEETING
TUESDAY, 19 JANUARY 2021
APPROVED MINUTES
*Approved as Amended at the 19 April 2021 Meeting***

ATTENDANCE

A	Paul Best, Secretary
X	Curt Chadwick
X	Jeremy DeCarli
X	Dan Iwanicki, Vice Chairman
A	Joe Stephens
X	Mark Stephens, Chairman
X	Thomas Worthley
A	David Costa, Alternate
X	Gail Reynolds, Alternate – Seated - Recused for 81 Arkay Drive Matter
X	Jim Puska, 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 7:08 p.m. All regular members as well as Mrs. Reynolds, alternate member, were seated.

2. Additions/Corrections to the Agenda

Mr. M. Stephens asked that Item #5 New Business - 1. Timber Harvest – Off Candlewood Hill Road. Applicant: Ralph Vynalek - be moved to Item #4. The Commission agreed.

3. Public Comment

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

4. New Business

1. Timber Harvest – Off Candlewood Hill Road. Applicant: Ralph Vynalek

Danny Thomas, Supervising Forest Products Harvester, Peter Marlow Forest Products, representing the applicant, was present.

Mr. Thomas stated he was looking to receive approval for two wetlands crossing as of right for a timber harvest taking place on Candlewood Hill Road in the northern part of the property towards Wiese Albert Road. Mr. Thomas explained each of the crossings: 1) Closest to Candlewood: propose using three –16 foot long by 4 foot wide mats to cross a brook that outlets from a dam in order to drive a skidder and haul the logs across. This will be removed when work is complete. 2) Crossing is already in place: a culvert that runs into the lake. Nothing is planned for this area unless it becomes muddy and then some logs (corduroy) will be put in place.

Mr. Iwanicki asked if the abutting property owners had been notified. Mr. M. Stephens asked Mr. Thomas if the neighbors had been notified and the Certified Mailings submitted to Mr. Puska. Mr. Thomas stated no, as he was unaware it was a requirement, but he could do so.

Mrs. Reynolds stated the map indicates three crossings; however, only two were mentioned. Mr. Thomas stated the plan was amended (copy provided via email).

Mr. Iwanicki asked Mr. Puska if a description of work, amount of board feet, etc., had been received. Mr. Puska stated yes, it was mailed out with the site map.

Mrs. Reynolds asked what will be cut. Mr. Thomas stated about 66 percent of the trees that are 14 inches and larger will be removed and are marked. Mrs. Reynolds also asked if the trees are hardwood or softwood. Mr. Thomas stated all are hardwood. Mrs. Reynolds asked if Mr. Puska will be checking to make sure Best Management Practices will be followed. Mr. Puska stated he and Mr. Thomas have discussed what will be done and the types of bridges to be used. Mrs. Reynolds asked Mr. Puska if he will be going on site to review the project. Mr. Puska stated he asked Bill Warner, Town Planner, to review the site (did so today). Mr. Thomas confirmed that he had met with Mr. Warner.

Mr. Iwanicki asked if the trees were marked. Mr. Thomas stated yes. Mr. Puska stated Mr. Warner had indicated the property looked good and he did not have a problem with the project.

Mr. DeCarli asked if the slash will be left in the field or removed after completion of the project. Mr. Thomas stated it will be left in the woods.

Mr. Iwanicki asked how many pieces of equipment will be used. Mr. Thomas stated one piece of equipment (skidder) and a logging truck that will be coming in and out.

Mr. DeCarli asked if any water bars are planned for the roads noting that the topography is not flat. Mr. Thomas stated they will be going along the slope and water bars will be used. Mr. DeCarli asked if slash will be placed across the road or will it be left as a permanent skid trail. Mr. Thomas stated some of the skid trails are well established and will be left as they are.

Mr. Worthley asked since skidding over the crossing is proposed, if the temporary bridge is solid all the way across to prevent logs from going between two supports. Mr. Thomas stated there will be three mats that will abut right up next to each other.

Mr. Iwanicki asked for start and completion dates. Mr. Thomas stated start and completion dates are as soon as possible. Mr. Iwanicki asked how long the operation will last. Mr. Thomas stated approximately two to three months.

Mr. Worthley asked if there was a lot of gypsy moth damage/mortality. Mr. Thomas stated there is a little bit, but not too much. Mr. Worthley stated he was wondering if there was a lot of salvage involved. Mr. Thomas stated enough, but not too much.

Mr. Iwanicki stated he would like the abutting property owners notified of this project prior to approval. Mr. M. Stephens stated it would be included as a condition. Mr. Iwanicki voiced concern over the abutting property owners having the opportunity to question the project. Mr. M. Stephens stated the property owners would only be notified of an activity not that there's a meeting. Mr. Puska suggested no cutting take place 500 feet from the abutting property owners' boundary lines until they have been notified. Mr. Thomas stated he could do that. Discussion followed in regard to how the notification should be handled – Mr. Thomas will obtain the property owners signatures when they are notified verbally and provide the signature sheet to Mr. Puska.

Recording Clerk's Note: Copy of letter and maps on file in the Town Clerk's Office with the minutes and the Land Use Dept. – Exhibit A, 3 pages.)

MOTION: Dan Iwanicki motioned to approve a commercial timber harvest as shown on narrative and description submitted 1-19-21. **Conditions:** 1. Standard Permit Conditions. 2. Special Conditions/Modifications – Yes. a. All abutting properties within 500 feet to be notified in writing of the activity. Tom Worthley second. Mr. M. Stephens called for the vote: Reynolds – yes; DeCarli – yes; Chadwick – yes; Worthley – yes; Iwanicki – yes; and M. Stephens – yes. Motion carried unanimously.

5. Old Business

1. Discussion of Amended Site Plan for 81 Arkay Drive with Mike Harkin

Michael Harkin, P.E., Harkin Engineering, applicant; Michael Sciascia, owner/applicant; Bill Cowan, President, Haddam Land Trust (HLT); were present.

Mrs. Reynolds recused herself from this matter.

Mr. Harkin reported that at the last meeting it was determined that Mr. Sciascia and the HLT needed to get together with their attorneys to discuss the direction they wanted to go in and once a decision was made, they would come back to him in order to put a plan together.

Mr. Harkin reviewed the revised plan (Exhibit B, 1 page) noting in particular the following call outs: **Item #6** – Although the bank is relatively stable, the right thing to do is topsoil and seed it, water it to get additional growth and hopefully, the root mass will lock in to create a better blanket. Mr. Sciascia has agreed to it and will do the work. **Item #7** – Last time on site, there was a lot of erosion from storm water runoff being funneled towards the bank. Propose regrading the area to direct the water away from the bank and distribute it accordingly throughout the site. Mr. Sciascia has agreed to it and will do the work. **Item #9** – Trees, logs, and large boulders still in the bank. The correct thing to do is remove them; and in order to do this appropriately, the access road is still needed. Mr. Sciascia has agreed to it and will do the work.

Mr. Harkin stated the gist of the plan is as reported back from Mr. Sciascia and hopes that Mr. Cowan will concur. Mr. Harkin turned the presentation back over to the Commission.

Mr. M. Stephens stated there is nothing on the plan in regard to adding six inches of loam, seed, and mats. Mr. Harkin stated the areas to be topsoil call for four inches topsoil minimum and seeding to be done in the spring of 2021 (Item #6). Mr. Harkin also stated he did not believe mats would be beneficial to the project as it would kill existing vegetation which already has a good root mass. The existing foliage would still be able to grow through four inches of material.

Mr. DeCarli asked if there was any concern with water running off the existing garage. Mr. Harkin stated the garage in its current location is not that bad as there's no sign of erosion. Mr. Harkin noted that the roof is split in half and the section toward the back is not eroding at all.

Mr. Iwanicki asked what the topography at the top of the slope will look like. Mr. Harkin stated the bank will be the same steepness as it currently exists and the top is currently flat. Mr. Harkin stated changing the topography and the grades would only create more problems. Mr. Harkin also stated removal of the trees, logs, and boulders will not be an issue as most of them are top side and visible and will not really change the degree of slope of the bank.

In regard to Item #7, Mr. Iwanicki asked how the water will be redirected. Mr. Harkin stated it would be redirected between the existing house and the garage. Mr. Harkin stated currently runoff funnels into one area and goes over the bank. Mr. Harkin stated the first thing to do will be to create a berm to help kick the water back towards the grassy area. Mr. Iwanicki stated the berm is not indicated on the site plan. Mr. Harkin stated it will merely be regrading of the area. Discus-

sion followed in regard to Item #13 of the old plan – call out of the berm; called for the removal of the bank and not for redirecting runoff; and the placement of hay bales (only for disturbance of bank which will not be taking place). Mr. Sciascia stated the berm has already been created between the garage and the house and water has been redirected into the grassy area.

Mr. Chadwick asked if the HLT had any comment. Mr. M. Stephens spoke in regard to a letter from Paul Geraghty, Esq., representing the HLT, dated 16 December 2020 that was sent out previously. Mr. Cowan stated there was some confusion about what the intent of the HLT was and that Paul Geraghty had sent a clarification letter. Mr. Cowan stated it appeared that there was a misunderstanding as to what the HLT's intent was; and what happened is that the HLT and Mr. Sciascia did not come to an agreement whatsoever. Mr. Cowan also stated that the clarification letter made it clear that what people interpreted from that was not in fact the case; and there is no agreement. Mr. Cowan stated the HLT has continued to object and is not going to go along with this plan for the same reasons. Mr. Cowan stated unless there's a path for the removal of this material, there is no benefit to the HLT and they will not cooperate with the proposal. Mr. Cowan stated the HLT wants to go back to the original plan to grade the slope back to 2:1; and if the HLT has to wait for that, o.k., but not great. Mr. M. Stephens read Mr. Geraghty's 16 December 2020 letter (Exhibit C, 1 page) to the Commission in which it states HLT has determined that it will allow the slope as it exists on the Sciascia property and the HLT property to remain in its present condition. They do wish that steps be taken to further stabilize the slope by seeding it but will take no further action unless there's a failure of the slope or the status there of changes. Mr. M. Stephens stated he sees that as wonderful news.

Mr. Cowan asked Mr. M. Stephens to read the clarification letter. Mr. Cowan read the clarification letter to Mark Stephens from Paul Geraghty, Esq., dated 21 December 2020, (Exhibit D, 1 page). In the letter it indicates that the HLT entering into an agreement with the Sciascias about the slope and the encroachment didn't seem to add anything to the mix. The HLT was agreeable to the original remediation plan but not the proposed modified plan. However, this is an IWC matter and the HLT should not be injecting itself into the middle of it, but rather it is for the Commission to take appropriate action. The letter should not be taken as acquiescence to the present circumstances, but rather that the HLT does not deem it appropriate for them to try to negotiate a path forward. The HLT would still like to see the slope and encroachment resolved.

Mr. DeCarli stated what he's hearing is that the HLT is taking a step back, but they would like to see the slope cut back to where it originally was or at least 2:1. Mr. DeCarli noted that the HLT did not file an environment intervention. Mr. DeCarli stated in taking the step back, the HLT is saying they're not a party to the application and are letting the Commission go through the motions (look at the application for its merits and make a decision). Mr. Cowan stated the HLT cannot come to an agreement with Mr. Sciascia because the HLT would like some sort of a guarantee or an assurance that this is going to be resolved (not a permanent fixture). Mr. Cowan stated Mr. Sciascia is not able to do that and the only ones who can provide that assurance is the Commission and it appears the Commission is choosing not to do so. Mr. Cowan also stated Mr. Sciascia currently has a permit to do the work and that the new plan is just modifying the scope of the work. Mr. Cowan stated he believes Mr. Sciascia is not obligated to do any of the work.

Mr. M. Stephens stated he felt it made sense to leave what's there stay there; was not advocating for letting the existing permit run out and approve a five year extension; and that the whole idea is to get this matter buttoned up. Mr. M. Stephens apologized to Mr. Harkin, Mr. Sciascia, Mr. Puska, and the Commission as he thought there was an agreement.

Mr. Sciascia stated he spoke to Mr. Geraghty about a week and one-half ago and didn't mention anything of what Mr. Cowan had stated. Mr. Sciascia stated he never would have had Mr. Harkin devise another plan just based on a letter. Mr. Sciascia stated when he spoke to Mr. Geraghty,

he had indicated that the HLT was fine with leaving the bank the way it was. Mr. Sciascia noted that this discussion took place after the supposed second letter was sent out. Mr. Sciascia stated he also spoke to Mr. Geraghty three or four days later about the donation of a sign to the HLT marking the land on Mario Drive and that Mr. Geraghty would discuss it with the HLT. Mr. Sciascia stated he is annoyed with Mr. Cowan as this is what happens every time an agreement has been reached and that Mr. Cowan is confusing the Commission. Mr. Sciascia asked the Commission to vote on the matter.

Mr. DeCarli stated the Commission has an application before them and the Commission's goal is to protect the wetlands and to make sure that whatever work takes place doesn't impact the wetlands in a negative sense. The issue before the Commission is that some work was done originally unpermitted – some fill was brought in. The Commission knows that remediation restoration needs to take place, but that doesn't necessarily mean bring it back to its original state. Mr. DeCarli continued by stating this is upland review area with the exception of some area that we know was filled in across the property line and into the HLT property. That area where the fill slipped into the HLT property line that's an area the HLT should be arguing and there's a trespass issue there. Mr. DeCarli stated he believes the Commission's role is to look at the application that's in front of them – are they being shown a proposal that is going to take the proper steps to protect that wetland source at the bottom of that slope. The Commission knows that there was a slope out there to begin with. The Commission has been on site. The house is way high and the wetland is way low. Does it have to go back to the original slope, Mr. DeCarli stated in his opinion it does not. The HLT can object. Mr. DeCarli stated he does not believe the Commission is going to get 100 percent agreement on this matter. Ultimately, there was no environmentally intervention so as far as the law is concerned; the HLT is not a party to the application other than the area that went over the property line. What the Commission needs to do is take a look at it – the HLT and the Sciascias need to come to an agreement about that area at the toe of the slope where the soil went into the wetland – but the Commission needs to look at the rest of it and decide is this the right path forward. Mr. DeCarli stated what he sees with the restoration plan is that it gets the slope covered with grass and gets it stabilized, it is taking the roof water, which is a tremendous load on the slope, and getting it off the slope and getting the driveway and the other roof water away from the slope. That seems to be the right path forward. Mr. DeCarli stated the Commission cannot restore the slope to its original state, but it can remediate and protect it going forward.

Mr. Harkin stated the last meeting he was privy to, in the record document, the HLT refused to give Mr. Sciascia or his agents permission to go on the property to remove the fill. Mr. Harkin stated Mr. Cowan did not want anybody on his property. Mr. Harkin stated it's understood that there is fill on the HLT property, but the HLT on record would not grant permission for Mr. Sciascia or his agent to go on the property to address the matter.

Mr. Cowan stated the original remediation plan was a 2:1 slope and the HLT agreed to that as well as agreeing to allow contractors to come onto the property. However, the amendments to the original plan have been unacceptable. Mr. Cowan stated the HLT has refused to allow people onto the property to do that.

Mr. M. Stephens asked Mr. DeCarli if he felt the Commission should take a vote. Mr. DeCarli again stated the Commission's goal is to protect the wetlands and the longer the slope is left unattended, unvegetated and disturbed the more of a problem it is going to be. Mr. DeCarli stated the Commission is aware of an area between the house and the garage that is eroding due to a funneling effect, the house either does or does not have gutters, the Commission knows that there is a steep slope with water hitting it and that it is susceptible to erosion as long as it is not covered. Mr. DeCarli stated he's aware there is an issue at the toe of the slope; and depending

on the amount of fill (doesn't recall it be that much, but has not been on site recently) nature does a good job of taking care of it over time if there's not a lot. In conclusion, Mr. DeCarli stated the slope needs to get covered up so it's not a potential risk going forward.

Mr. Worthley agreed with Mr. DeCarli's comments that the Commission needs to require something be put on that slope and stabilize it even though it doesn't satisfy the HLT's complaint. Mr. Worthley stated if they remain not in agreement, that's their right. Mr. Worthley also stated there is not an agreement that allows the HLT to come back legally to hold anyone accountable should, in the future, the whole business fails. Mr. Worthley stated he believes the Commission can act independently of the HLT not being in agreement and respects the fact that they do not want to be in agreement as they want to protect their future position. However, the Commission needs to make a decision about something that will protect the wetlands moving forward.

Mr. DeCarli stated Mr. Cowan has asked what protects the HLT; and the Commission has the authority under Section 13 (specifically 13.4) of the regulations to require a bond – cash, credit, etc., and it can be for a specific time frame. Mr. DeCarli stated let the slope grow and stabilize and then return the bond at the end of the appointed time. This will give the HLT and the Commission some form of guarantee and this will hold the applicant accountable. Discussion followed as to who would determine the amount of the bond (speak to the engineer about the cost of construction and take a percentage of those costs).

Mr. Worthley also reminded everyone that doing anything to excavate the soil could do more harm than good. Mr. M. Stephens agreed.

Mr. Sciascia stated he did not have a problem with a bond and that he agreed with what Mr. DeCarli and Mr. Worthley have said. Mr. Sciascia asked the Commission to vote on the matter and make the bond a condition of the approval. Mr. DeCarli stated the bond needs to be posted 10 days prior to any work beginning.

Mr. Iwanicki asked the difference between the plan before the Commission and the originally approved plan. Mr. Harkin stated the first plan was to go onto the HLT property with heavy machinery and peel the material off; subsequent revisions had: 1) less material being taken off; 2) removal of the material off the HLT property, and leaving the slope and installing a wooden wall; and 3) finally, minimal material to be removed and no installation of a wooden wall. Mr. Iwanicki asked if the revised plan will require machinery to go onto the HLT property. Mr. Harkin stated no, and there will be no removal of material on the HLT property.

Mr. Iwanicki asked what the permit looks like and what it will look like if the Commission should approve. Mr. Iwanicki also asked the cost of a bond and if Mr. Sciascia would be agreeable to the bond. A brief discussion followed that the bond would be based on what's before the Commission tonight (modified plan) not the original plan. Mr. Sciascia stated the bond is not an issue; and although the HLT can object, they may not.

Mr. Chadwick asked if there would be a separate violation for the material still left in the wetlands which the revised plan does not address. Mr. Puska stated the trespass would be looked at as a civil matter. Mr. DeCarli agreed.

Mr. M. Stephens stated he thought an agreement had been reached and that everyone was looking to see the bank stabilized and green. Mr. M. Stephens also stated he had hoped the HLT would see that if the plan failed, the Commission would go back to the matter. Mr. Cowan stated the HLT does not trust the Commission as the Commission has had the power to get the material remove; and asked why he (Cowan) would think the Commission will do anything in the future if there's a problem. Mr. DeCarli stated that's the purpose of the bond. Mr. Cowan stated if there's

an appropriate bond, perhaps there can be some discussion. Mr. DeCarli stated the bond could go longer than a year. Mr. Sciascia stated the slope has sat for three and one-half years unprotected except for its own growth and it has not gone anywhere. Mr. Sciascia stated he understands the proper permitting was not done in the beginning and that there's a trespass. Mr. Sciascia also stated the contractor he put his faith into did not do his due diligence and that's on him. Mr. Sciascia stated he would like to get the embankment graded properly so the water is not going into one area and get some vegetation on it to prevent any further erosion. Mr. Cowan asked why the HLT has to suffer the consequences. Mr. Sciascia stated it's the HLT's right to go to civil court over the trespass issue if Mr. Cowan chooses, but it's not a wetlands issue. Mr. Sciascia stated the issue at hand is whether or not the Commission is going to approve or not approve the permit.

Mr. Worthley stated that was his point early to take steps now to do what the Commission can to protect the wetland and to allow the HLT to not agree in order for them to have their position clear should there be any future need to go to court (hopefully, this won't happen). Mr. Worthley stated hopefully things will be corrected sufficiently to be able to hold up over time; however, if ten years down the road there is a failure, the HLT is in a position to say we did not agree to this and now there has to be a solution. Mr. Worthley stated the Commission needs to take steps to revegetate the slope and remove the risk of some calamity happening later.

Discussion followed in regard to the wording for the development of the bond; discussing the bond amount with the town's engineer; the length of the bond; when the bond would be issued; and the Notice of Violation being on file on the Land Records (Mr. Iwanicki asked if this has been cleared by the town attorney. Mr. M. Stephens stated yes.). Mr. Sciascia asked if the Notice of Violation would come off the Land Records once the bond is closed and would it be a condition of approval. Mr. M. Stephens stated no, as it is two separate things.

Mr. Cowan stated the Wetlands Commission is going to set up the permanent trespass on the HLT property by saying that it's ok when it has nothing to do with the Commission and is strictly an issue between Mr. Sciascia and the HLT. Mr. Iwanicki stated he did not believe that's the Commission's stance; but rather the plan is feasible and prudent for this alternative and that the Commission is protecting the wetlands as best as possible with the circumstances that are presently in place. Mr. Iwanicki also stated that because Mr. Sciascia does not have to go onto the HLT property the Commission does not necessarily need the HLT's permission to do any of the work. Mr. M. Stephens stated he would like to see the majority of the site reestablished. Mr. Sciascia asked what the violation is. Mr. M. Stephens stated the violation is doing unpermitted work within a regulated area. Mr. Sciascia asked if there's anything regarding the trespass. Mr. M. Stephens stated the Commission did not get involved in that.

MOTION: Jeremy DeCarli motioned to approve the updated site plan for embankment stabilization for 81 Arkay Drive as shown on map submitted from Mike Harkin on 1-19-2020. See map and plans on file in the Land Use Office. **Conditions:** 1. Standard permit Conditions. 2. Special Conditions/Modifications – Yes. a. Establish a Wetlands Protection Bond to be determined by Engineer Harkin and Town Engineer. This bond will stay in place for a minimum of 2.5 years from the date of the Letter to Proceed is issued. **Reason for approval:** Remediate unauthorized fill activities and stabilize the bank to eliminate potential harm to the wetlands in the future. Dan Iwanicki second. Mr. M. Stephens called for the vote: DeCarli – yes; Iwanicki – yes; Chadwick – yes; Worthley – yes; and M. Stephens – yes. Motion carried unanimously.

After the vote, Mr. Harkin stated town staff should be going onsite to monitor the situation; however, if needed, he would look in. Mr. M. Stephens asked Mr. Sciascia if he felt comfortable in getting this work done. Mr. Sciascia stated as soon as the bond issue is set, he will begin work.

6. Forestry Regulations Discussion

Discussion tabled.

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

7. Wetland Enforcement Officer's Report

There was nothing new to report at this time.

8. Approval/Correction of Minutes

MOTION: Dan Iwanicki motioned to approve the 19 October 2020 minutes as submitted. Jeremy DeCarli second. Motion carried unanimously.

8a. Miscellaneous

Business Meeting – Election of Officers - Mr. M. Stephens reported that February is typically the Commission's business meeting (election of new officers). Mr. M. Stephens briefly outlined his time on the Commission; and stated that he will not be resigning, but he would like someone to consider taking over as chairman.

9. Adjournment

MOTION: Tom Worthley motioned to adjourn. Jeremy DeCarli seconded. Motion carried unanimously.

The meeting was adjourned at 8:49 p.m.

Respectfully Submitted,

Bunny Hall Batzner

Bunny Hall Batzner
Recording Clerk

Due to the observance of Presidents' Day,

the next regular meeting is scheduled for TUESDAY, 16 FEBRUARY 2021.