

**\MADISON INLAND WETLANDS AGENCY  
REGULAR MEETING  
Monday, August 3, 2009  
Meeting Room A, Town Campus**

A regular meeting of the Madison Inland Wetlands Agency (IWA) was held on Monday, August 3, 2009 at 7:30 p.m. in Meeting Room A, Madison Town Campus. With Chairman Thomas Paul presiding, the meeting was called to order at 7:30 p.m.

Present: Thomas Paul, John Mathieu, Rodney Bascom, David Newton, Barbara Yaeger, Lee Schumacher and Alternates: Barry Nann and Ted Aub and. Inland Wetlands Officer Robert Kuchta and Director of Public Works and Town Engineer Mike Ott were also present. Glenn Falk and alternate Bill Freeman were absent.

In order to expedite the agenda, applications and agenda items were addressed in the order that best served the Agency.

**REGULAR MEETING AGENDA ITEMS:**

- 1. 09-04: 82 EDINBURGH LANE. The Highlands.** Map 41, Lot 47-23. Owner/Applicant: Robert E. Dowler. Request for as-of-right activity under Sec. 4 of the regulations to clear land of invasive vines and grub tree roots in Open Space within wetlands and wetland review area for agricultural use. **WITHDRAWN**

IWO Kuchta – explained that the violation occurred in December '08 which led to IWO Kuchta calling him in January '09 and asking that no more cutting be done. He was away but agreed to cease cutting and that he would file a Section 4 application when he returned from his vacation. Including the extensions, this meeting is the 88<sup>th</sup> day out of the allowed 90 days. Some action needs to be taken at this meeting.

R. Bascom – there is no application before us; it was withdrawn this afternoon. We do not have to act on it; we need to address the violation.

J. Mathieu – is there a Cease and Desist order on the property?

IWO Kuchta – it was a verbal cease work order.

R. Bascom – it is time for a formal Cease and Desist order to be issued from the Agency. Mr. Dowler should be present at the next meeting to discuss a plan for restoration of the property. If he intends to follow up on the as-of-right usage, we need to get an opinion from Atty. Zizka as to whether or not that is an appropriate at this point.

D. Newton – Mr. Dowler cleared an upland area and we need to be sure it is stabilized.

L. Schumacher – the minutes show that there was discussion of erosion control measures; was anything done with that?

IWO Kuchta – a landscape company was hired to look at the site to see if any erosion controls were in place. In his opinion, in the area near the streams, some erosion controls should be in place.

D. Newton – was out there today and despite the storm there is little scouring. Some of the brush that was cut down is preventing erosion.

R. Bascom – after reading a letter previously submitted by Mr. Dowler, he expressed concern over whether or not Mr. Dowler understands that in order to use that property for agricultural purposes, he needs to go back to Planning and Zoning. It will come back to this Agency and he will then have

to go through the application process. We need to see a plan from him now that will assure that this property is going to be stabilized and not left as is.

B. Yaeger – this easement really needs to be interpreted by Atty. Zizka because of the possible differences in interpretation.

D. Newton – IWO Kuchta needs to write a letter to him, along with the Cease and Desist Order, that tells him what we are expecting from him. We need to know what exactly what he is planning to do.

**A motion was made by David Newton, seconded by Rodney Bascom, whereby the Madison Inland Wetlands Agency voted unanimously to issue a Cease and Desist order to Robert Dowler, 82 Edinburgh Lane for activity occurring within the 100' upland review area. The Cease and Desist order should specifically outline what is required of him to prevent damage to the wetlands.**

There were members of the public present to speak regarding this withdrawn application. Chairman Paul allowed their comments.

Carol Altieri, 54 Edinburgh – spoke in opposition.

Frank Altieri, 54 Edinburgh – spoke in opposition.

Barbara Davis, Stone Road – spoke in opposition

Bill Walling, 15 Tamarack Dr. – spoke in opposition

Keith Ainsworth, Green Springs Dr. – spoke in opposition

Bill McCullough, Liberty St. – spoke in opposition

**PUBLIC HEARINGS – Scheduled for 8:00 P.M.:**

**A motion was made by David Newton, seconded by Barbara Yaeger, whereby the Madison Inland Wetlands Agency voted unanimously to open public hearing 09-17: 9 Old Route 79, owner/applicant Town of Madison, at 8:05 P.M.**

1. **09-17: 9 OLD ROUTE 79.** Map 48, Lot 2. Owner/Applicant: Town of Madison. Amendment to Inland Wetlands and Watercourse Map of the Town of Madison.

Mike Ott, Town Engineer, Director of Public Works –

Presented a boundary amendment application for the Madison Depot site. Soil Scientist, Richard Snarski's report was submitted for the file. The only wetland on the site is a manmade pocket wetland that was excavated at some point. Eric Anderson, Anderson Engineering and Surveying Assoc., surveyed the property.

Chairman Thomas Paul – read IWO Kuchta's report into the record.

IWO Kuchta – It appears this is an excavated ditch from the construction of I-95. It does take water from the north that passes underneath a portion of the I-95 right-of-way and then travels south through this area. There are times that this ditch does not have any water in it. It is a very small area. There are pipes to conduct the water through.

R. Bascom – what happens down stream?

IWO Kuchta – it discharges to the south towards the old Police Department

J. Mathieu – this is a boundary clarification. Most questions can be asked when the application for the activity is presented.

Chairman Thomas Paul – asked for comments or questions from the public and there were none.

**A motion was made by John Mathieu, seconded by Rodney Bascom, whereby the Madison Inland Wetlands Agency voted unanimously to close public hearing 09-17: 9 Old Route 79, owner/applicant Town of Madison, at 8:15 P.M.**

**A motion was made by David Newton, seconded by John Mathieu, whereby the Madison Inland Wetlands Agency voted unanimously to approve application 09-17: 9 Old Route 79.**

**A motion was made by John Mathieu, seconded by David Newton, whereby the Madison Inland Wetlands Agency voted unanimously to open public hearing 09-18: 29 Bradley Road, owner/applicant Town of Madison, at 8:16 P.M.**

2. **09-18: 29 BRADLEY ROAD.** Map 38, Lot 9. Owner/Applicant: Town of Madison. Amendment to Inland Wetlands and Watercourse Map of the Town of Madison.

Mike Ott, Town Engineer, Director of Public Works –

Presented a boundary amendment application for the wetlands at the end of Academy St. Soil Scientist, Richard Snarski's report was submitted for the file.

Chairman Thomas Paul – read IWO Kuchta's report into the record. He asked for public comments or questions and there were none.

**A motion was made by David Newton, seconded by Lee Schumacher, whereby the Madison Inland Wetlands Agency voted unanimously to close public hearing 09-18: 29 Bradley Road, owner/applicant Town of Madison, at 8:20 P.M.**

**A motion was made by Rodney Bascom, seconded by Barbara Yaeger, whereby the Madison Inland Wetlands Agency voted unanimously to approve application 09-18: 29 Bradley Road.**

**REGULAR MEETING AGENDA ITEMS: (continued)**

2. **09-10: 104 HICKORY LANE.** Map 128, Lot 46-3. Owners/Applicants: Ronald D. and Diane D'Amato. Regulated Activity Permit for modification of driveway within 100 ft. wetland review area. Resubdivision Referral.

Kevin Kenny, Kenny Associates, Guilford

As representative for the applicant he gave the history of this property. He explained that he was representing the applicant for two applications, 09-10 and 01-51T+Mod, both on the same property. The existing application was obtained four or five years ago, a driveway to be constructed off of Route 80 on this property to access the rear of Lot 3 of the Gesner Hill Subdivision on Hickory Lane. That approval is still in effect and they are asking to modify aspects of that application. Instead of constructing that driveway they wish to construct a new driveway from Hickory Lane to serve both lots. Currently, there is a permit that exists to serve the proposed lots, 3A and 3B of the Gesner Hill Subdivision from Route 80. This required an easement on the property of a third party. They are currently seeking, in the new application, to come off Hickory Lane with a new driveway to serve Lot 3A. It would also serve Lot 3B which is the next application. Alternatives were considered but most were impeded by the location of inland wetlands.

Chairman Thomas Paul – is this a repeat of an application that was presented 5 years ago?

Kevin Kenny – application 09-10 is for lot 3A; 01-51T+Mod, for Lot 3B that was approved approx. 5 years ago, is proposed to be modified to allow for a change in the driveway.

R. Bascom – because you are changing the access location for 01-51, why wouldn't that just be included as part of the new application?

Kevin Kenny – on 3A, the house and the sanitary system have been moved. On 3B, the house, the sanitary system, the well and the grading are all staying the same. When it was approved, the regulations were 75' setback for sanitary to wetlands and 50' for all other activities.

D. Newton – at the approval for the original subdivision, the IWA denied that access. What has changed since then?

Kevin Kenny – there was a very close vote when that was denied. The minutes do not give a clear picture of why that decision was made.

D. Newton – it was denied because of the wetland crossings and the IWA felt that having it as one lot was perfectly sufficient.

J. Mathieu – he remembers that the Agency felt that the crossing was too substantial to serve just one lot.

Kevin Kenny – it is for two lots.

J. Mathieu – well at the time it was one lot.

D. Newton – it was originally proposed to be two lots and we denied it and they made it one lot. What conditions have changed since we previously denied that access.

Kevin Kenny – I can not tell what is different because there is no public record as to why it was denied in the first place. This watercourse does not run year-round. It is just rock and is not a habitat of any sort. We will be using precast units and they will have no impact. The earlier design had extensive sloping downstream but now we are avoiding that. This design is very expensive compared to the old one.

J. Mathieu – encouraged Mr. Kenny to look at the crossing at Lot 13, Lantern Hill.

R. Bascom – has an engineer looked at this?

Kevin Kenny – the “Strong Stone” system comes with engineering that comes with the actual plans. They have their own licensed people on staff. We have previously used this system.

R. Bascom – the topography of this area will really need an engineer to provide the IWA with adequate information.

Kevin Kenny – we could have an environmentalist look at this in order to determine if any of the proposal would cause negative impact on the environment.

Chairman Thomas Paul – there are wetlands all over this development.

Kevin Kenny – where we are working, it is all upland and the crossing is all boulders. He asked for some direction.

Chairman Thomas Paul – it is probably a good idea to schedule a site walk for the Agency.

D. Newton – if there is going to be a change in the original, it should be taken off the table completely and the 09-10 should include what ever changes are being proposed. What does 09-10 include?

Kevin Kenny – approval of some of the grading, some of the sanitary.

D. Newton – summarized: it includes two crossings, any driveways that are within 100', grading around the new house, the sanitary system. The Modification needs to be withdrawn and those changes added to this application. It appears to be a substantial application at this point. The applicant is taking what is one lot today and making three lots out of it.

R. Bascom – professionals need to be involved in order to answer the Agency's questions.

**A motion was made by David Newton, seconded by Barbara Yaeger, whereby the Madison Inland Wetlands Agency voted unanimously to continue application 09-10 104 Hickory Lane to the next regularly scheduled meeting with a site walk to be held by the Agency.**

3. **01-51T+MOD: 104 HICKORY LANE.** Map 128, Lot 46-3. Owners/Applicants: Ronald D. and Diane D'Amato. Transfer and Modification of previously approved application 01-51.

**A motion was made by David Newton, seconded by Barbara Yaeger, whereby the Madison Inland Wetlands Agency voted unanimously to continue application 09-10 104 Hickory Lane to the next regularly scheduled meeting with a site walk to be held by the Agency.**

4. **SECTION 13 APPROVALS:**

**09-19: 588 BOSTON POST ROAD.** Map 38, Lot 122. Owner/Applicant: Gordon Cohen. Regulated Activity Permit to replace non-conforming stair and ramp with new code complying stair and walkway within 100 ft. wetland review area. **Approved July 2, 2009.**

IWO Kuchta – the application was to replace an existing exterior stair that is approximately 96' from the wetlands.

**09-20: 88 HICKORY LANE.** Map 128, Lot 46-4. Owner/Applicant: Allen R. Jackson. Regulated Activity Permit for construction of tennis court within 100 ft. wetland review area. **Approved July 21, 2009.**

IWO Kuchta – the corner of the slope from the tennis court was within the 100' review area. Recommended plantings for the area to help assure that runoff was mitigated by the vegetation.

**APPROVAL OF BILLS**

Approval of bills was tabled to the next meeting.

**APPROVAL OF MINUTES**

**A motion was made by John Mathieu, seconded by Rodney Bascom, whereby the Madison Inlands Wetlands Agency voted unanimously to approve the minutes of the July 6, 2009 meeting as submitted.**

**On a motion by David Newton, seconded by John Mathieu, the Madison Inland Wetlands Agency voted unanimously to adjourn at 9:07 P.M.**

Respectfully submitted,

J. Donnette Stahnke  
Recording Secretary, Inland Wetlands Agency