

APPROVED

**INLAND WETLANDS AGENCY
REGULAR MEETING MINUTES
MARCH 2, 2009**

The regular meeting of the Madison Inland Wetlands Agency was held Thursday, March 2, 2009 at 7:30 p.m. in Madison Town Hall, Meeting Room A.

MEMBERS PRESENT

C. Thomas Paul, Glenn Falk, Barbara Yaeger, David Newton, Rodney Bascom, John Mathieu

ALTERNATES PRESENT

Theodore Aub, Barry Nann

MEMBERS ABSENT

Lee Schumacher, Bill Freeman

OTHERS PRESENT

Robert Kuchta, Inland Wetlands Enforcement Officer; Michael J. Ott, Town Engineer; and members of the public.

Chairman C. Thomas Paul called the regular meeting of the Madison Inland Wetlands Agency to order at approximately 7:30 p.m. Agenda items were taken in the order prescribed in the minutes.

REGULAR MEETING AGENDA ITEMS:

- 1. 09-01: 505 SUMMER HILL ROAD.** Map 136, Lot 1. Owner: Estate of Ethel Schwenzer; Applicant: CMRE, LLC. Amendment to Inland Wetlands and Watercourses Map of the Town of Madison. **Receipt only.**

Darin Overton, P.E., of Milone & MacBroom, presented on behalf of the applicant. Mr. Overton described the parcel and oriented the Agency to its location. Mr. Overton demonstrated that a good portion of the property, particularly the southern part, is wooded on an aerial photograph. Mr. Overton stated that the inland wetlands were flagged on-site by a certified soil scientist and located by Milone & MacBroom, and were highlighted in green on the presentation plan. Mr. Overton described one wetland area that he stated is associated with two separate watercourses, and two other wetland pockets along the southern portion of the property connected by a small, intermittent watercourse. Mr. Overton also identified a man-made swale along the southern property line that collects the runoff from a broad valley that runs through the site and carries it out to a cross-culvert under the entrance to Camp Laurelwood and then into the Town's drainage system. Mr. Overton stated that they were proposing to subdivide the property in accordance with the RU-1 requirements into a total of 5 lots, maintaining the largest lot around the existing home, which will be a little over 4 acres. Because the applicant's presentation was leading into subdivision related activities, Mr. Paul pointed out that the

Agency would hear one application at a time. Mr. Overton, therefore, continued his presentation regarding the wetlands. Mr. Overton stated that the two wetlands on the property sit in wooded areas, the one on the western side being a little more mature woods that hasn't been disturbed or cleared in quite some time. Mr. Overton noted the report on file from the soil scientist regarding the existing wetlands on the site.

Mr. Bascom pointed out that the Agency requires the 100' wetland review area be shown on the plan. Mr. Kuchta clarified that the 100' line is required to be shown on Regulated Activity plans, not necessarily Boundary Amendment applications. Mr. Paul pointed out that when boundaries are drawn, it's typical that they include little triangles that point in toward the wetlands. Mr. Paul invited questions. Seeing none, **upon a motion by Mr. Bascom, seconded by Mr. Newton, the Madison Inland Wetlands Agency unanimously voted to receive application #09-01 and schedule it for public hearing.**

2. **09-02: 505 SUMMER HILL ROAD.** Map 136, Lot 1. Owner: Estate of Ethel Schwenzer; Applicant: CMRE, LLC. Regulated Activity Permit for construction of house, driveway, septic system, rain garden and associated grading within 100 ft. of a wetlands. **Receipt only.**

Darin Overton, P.E., of Milone & MacBroom, presented on behalf of the applicant. Mr. Overton stated that they were looking to subdivide this property into 5 lots, in accordance with the requirements for the RU-1 zoning district, the existing home being retained on Lot 5 on a little more than 4.39 acres. Mr. Overton stated that all the lots would be served by private wells and septic systems, and that suitable septic areas were verified in the field by the Town sanitarian. Mr. Overton further stated that as part of the Planning and Zoning review, they expect the Town sanitarian would review the design plans in detail. Mr. Overton stated that there was no direct wetland disturbance proposed as part of the subdivision, but that there would be disturbance within the wetland review area. Mr. Overton called out the dashed line around the wetlands shown on the plan that depicts the 100' wetland review area. Within that review area, Mr. Overton stated that there is about .85 acres of disturbance associated with proposed development on Lots 1 and 2. Mr. Overton identified the house location and some of the septic location as well as the actual home site itself that are partially within the review area; and then the driveway through the access out to Lot 2 also located in the review area. Mr. Overton stated that they provided for a cross-culvert under the driveway to maintain the hydrology and the hydraulic connection between the upland area to the north down into the two wetland pockets so that they maintain the same watershed as exists under current conditions. In order to also maintain the hydrology, even though Mr. Overton felt that there really isn't much impact for a two-acre development with respect to runoff from impervious surfaces, he proposed to install a raingarden on the low area adjacent to the houses to collect the roof runoff and some of the runoff from the driveway. Mr. Newton sought clarification that there were no Regulated Activities proposed for Lots 3, 4 or 5. Mr. Overton stated that there is some review area that extends onto Lot 3, but they were not proposing any development in that area. With respect to Regulated Activities proposed on Lots 1 and 2, Mr. Overton stated that they did look at alternative layouts, which they submitted with their application. Mr. Overton stated that in addition to speaking with their soil scientist, they met with Town staff 3 times prior to submitting the application, and everyone's impression was that the proposed layout has less impact on

the wetlands. Mr. Newton stated that the proposed layout might have less impact unless they only do one lot. Mr. Overton agreed that one lot would always be less, but expressed his opinion that the proposed orientation allowed them to preserve the integrity of the wetland pockets and create a reasonable development area. Mr. Overton stated that the applicant would be willing to accept restrictions in the form of a non-encroachment line, perhaps a conservation easement, to permanently set a line delineating a non-encroachment area to prevent any further encroachment of the yard area toward the wetlands. Mr. Newton stated that this question would come up at the next meeting. Ms. Yaeger asked whether the driveway would be paved. Mr. Overton stated that their intention would be to pave the driveways, and expressed his opinion that there won't be much impact from that runoff based on the short length of the driveways and the fact that they're going to run off through wooded or lawned areas and not be collected in the pipe and drainage system. Mr. Overton suggested that having the pavement will require less maintenance, whereas if they have gravel driveways that are not properly maintained, they will get sediment running off of them, resulting in a concentrated flow possibly getting down to the wetlands.

Mr. Newton asked whether a Subdivision Referral would be required for this. Mr. Kuchta stated that the applicant had not yet applied to Planning and Zoning, but they would likely do a Subdivision Referral on this particular project. Mr. Newton also asked whether this application was complete. Mr. Kuchta stated that he reviewed the application and it was complete, and that he had also visited the property and met a couple of times with the applicant. Mr. Ott remarked that he went out and looked at the swale along the southerly property line, and asked the applicant whether they would consider making some improvements to that because he observed that it looks like a machine-excavated, flat-bottomed, bare earth swale, and he wondered if the side slopes could be flattened out and it could be vegetated. Mr. Ott stated that then the Town might take an easement over it if the applicant is willing to grant one. Mr. Ott stated that there is a short section of concrete pipe that is actually on the applicant's land that serves as an inlet that comes into the Town road drainage system. Mr. Ott stated that this is an old situation and this is an opportunity to clean it up and the Town could take an easement, that way it will become the Town's responsibility. Mr. Ott stated that it doesn't require a lot of effort or funds for the Town to maintain it because it's short, and that the cost of those improvements to the swale would be very low as well. Mr. Overton agreed that that makes sense. Mr. Ott indicated that he did have a couple of other comments that he would reserve for Planning and Zoning.

Upon a motion by Mr. Newton, seconded by Mr. Bascom, the Madison Inland Wetlands Agency unanimously voted to receive application #09-02 and to schedule it for the next regular meeting and for a site walk.

3. The Highlands – Discussion of January 8, 2009

Mr. Kuchta reported that he received a copy of the maps from Robert Dowler, copies of which were included in members' packets. Mr. Kuchta stated that he talked with Chris Dowler to inquire as to whether Robert Dowler would be available for this meeting, and was informed that R. Dowler was still in Florida, but would be back in time for the regular meeting in April. Mr. Kuchta stated that he did, however, want to pass the

information from R. Dowler along to the Agency just so members know that he is not avoiding a meeting with the Agency. Mr. Kuchta explained that nobody else in R. Dowler's family has knowledge of this project, and so if the Agency agreed to be patient, not much would happen prior to the April meeting. Mr. Paul wondered whether they needed an application from R. Dowler for what he wants to do. Mr. Kuchta stated that at this point, it's an enforcement action, and that the Agency might decide it wants an application. Mr. Kuchta reported that R. Dowler stopped all activity once he was confronted, and that everything is stable and nothing would happen. Ms. Yaeger was concerned that spring was approaching and about potential impacts from water flowing across the property. Mr. Kuchta stated that he spoke with Bob Blundon of Madison Earth Care who did some of the work, who indicated that he would keep an eye on the site as well. Mr. Kuchta agreed that there is a lot of stone within the watercourse itself, but for the most part, the watercourse is stable. Ms. Yaeger was further concerned that they took away all of the cover that existed and if they start getting spring rains, there's nothing to dissipate the waterflow. Mr. Kuchta explained that the root systems are still there, and that what they did was they topped all of the trees at about 2', but they didn't take out the root systems or stump the property. Mr. Kuchta stated that while they may have loosened up some of the ground cover a bit, they didn't remove any of it, and so he thinks it will remain stable. Mr. Kuchta anticipated that this would take a couple of meetings to resolve. Mr. Paul asked whether there was a map available that shows where the wetland boundaries are or the 100' review area line. Mr. Kuchta agreed to provide a map from the subdivision itself for the next meeting. Mr. Newton expressed that he would think the parties involved with this violation would know better.

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

08-43: BOSTON POST ROAD. Map 44; lot 19. Owner: Tregger, LLC; Applicant: Gregg Fedus. Regulated Activity Permit for multi-family development with associated parking, utilities, accessways, and landscaping within 100 ft. of a wetlands.

Upon a motion by Mr. Mathieu, seconded by Mr. Newton, the Madison Inland Wetlands Agency unanimously voted to open the public hearing for application #08-43.

Gregg Fedus of Fedus Engineering, 27 Water Street, Mystic, presented. Mr. Fedus sought a permit to conduct Regulated Activities associated with development of a 20-unit, multi-family development, including parking, utilities, accessways and landscaping within 100 feet of wetlands. Mr. Fedus demonstrated the proposed site plan. Mr. Fedus identified Building 6 in the northwest corner, a portion of the cul-de-sac, and a stockpile of topsoil within the 100' review area. Mr. Fedus sought to use and remove the topsoil pile to provide a temporary sediment basin for dewatering purposes during construction that will then be converted to a raingarden. Mr. Fedus proposed a gazebo associated with the landscape package to be located off of the end of the cul-de-sac and walking trails to be connected throughout the site. Mr. Fedus clarified that they were not proposing anything through the actual wetlands. Mr. Fedus reported that the plans being presented this evening were revised plans in response to comments he received from Mr. Kuchta, Mr. Bowers and Mr. Ott. Mr. Fedus realized that the Agency would likely want to take

an opportunity to review the plans and stated that he would be happy to come back at the April meeting, but would go through them at this time.

First, Mr. Fedus demonstrated Sheet 3 of 8, the Soil Erosion & Sedimentation Control Plan. Mr. Fedus pointed out that he would further revise this plan to show the temporary sediment basin, which was detailed on Sheet 8. Mr. Fedus demonstrated the septic design on Sheet 4, and noted that they were successful in keeping the septic system out of the review area for all the buildings on the Boston Post Road side, and they were able to remove the stormwater from that area and run it out to Wildwood Avenue. The grading, utilities and storm drainage were demonstrated on Sheet 5. Mr. Newton asked whether basements were included in any of the units. Mr. Fedus stated that there are basements provided on the Wildwood Avenue side, and crawl spaces on the Boston Post Road side. Mr. Fedus stated that the crawl spaces would be located just above the high water table. Mr. Newton noted that the footing drains have to be at enough elevation to get the footing drains and have them see light at the end. Mr. Newton asked whether Mr. Fedus had a planting plan for the “turf reinforced, vegetated” level spreader. Mr. Fedus replied that a planting plan prepared by John Cunningham of TEC Landscape Design should have been submitted for the file. Mr. Newton stated that he wasn’t sure if this particular landscaping was covered in that plan. Mr. Fedus conceded that he didn’t think Mr. Cunningham specified that exactly, but agreed to have that all clarified for the next meeting. Mr. Fedus demonstrated the landscape plan next. Mr. Kuchta suggested that the level spreader might end up being a no-mow zone with perennial grasses that anchor the soil. Mr. Paul asked how the stormwater plan would work in the winter with freezing and thawing. Mr. Fedus stated that he didn’t take it into account in the calculations, and guessed that if it freezes over, the water will just run to the basin and get in. Mr. Fedus stated that it all runs to the basin anyway, but prior to getting to the basin during the warmer seasons, they feel they have a chance of getting some infiltration. Mr. Fedus noted that the soils are all very well drained on the site. Mr. Paul pointed out that the Conservation Commission was concerned about the width of the road and wondered whether that was addressed. Mr. Fedus responded that the Conservation Commission had originally asked for 18’, but he and Mr. Ott both agreed that 18’ might be a little too narrow, and so they settled on 22’ rather than 24’. Mr. Fedus stated that they were also not installing curbs in order to get the water off the road, and that in some areas it will enter gutters but in other areas it will just flow off and get into the ground. Mr. Fedus stated that he thought the Conservation Commission submitted a subsequent letter indicating that most, if not all, of their concerns had been addressed. Mr. Newton confirmed that there was a letter in the file indicating that. L. Kealoha Freidenburg, Conservation Commission member, commented that she was not at the last Conservation Commission meeting, but agreed that the letter did indicate that the applicant made an effort to address their concern.

Next, Mr. Fedus briefly went over the notes regarding stormwater. Mr. Fedus stated that they did not provide a trash dumpster on the site, and that each unit would be responsible for its own trash and would have containers within their garages. Mr. Fedus stated that one disposal company would handle the trash for the whole development as opposed to several coming in and out. Mr. Newton asked whether that would be controlled by a deed restriction, and Mr. Fedus assumed that it would be written into the contract or the condo documents. Mr. Fedus continued his presentation of the rest of the plan set. Mr.

Fedus noted that the leaching area for Building 8 is the only one that falls within the wetland review area, and that they have a monitoring well located there and samples have revealed no groundwater present there. Mr. Fedus further explained that they kept the system up as close to the surface as they could. Mr. Fedus outlined the test pit data and summarized that they revealed very well drained soils, very consistent throughout the site. Mr. Newton observed that the gazebo appeared to be within 10' of the wetlands. Mr. Fedus stated that he thought John Cunningham had some secret answer for that being so close. Mr. Newton wondered about the construction process for the gazebo. Mr. Bascom pointed out that they also have a 6 contour, which is the lowest contour on the map, that wraps around the gazebo, so that in addition to being so close to the wetlands, the gazebo is actually in a hole. Mr. Fedus conceded that it was obvious that the gazebo needs to be moved back, but pointed out that Mr. Cunningham was not available to defend his location. Mr. Newton noted that this would be a question raised at the next meeting. Mr. Newton further pointed out that there were no construction details provided for the pool, and was curious whether there would be a concrete foundation or it would sit on sonotubes, for example. Ms. Yaeger further inquired about a landscape plan around the gazebo. Members reviewed the large landscape plan on file and determined that a large concrete floor was proposed, which would require digging a big hole. Ms. Yaeger remarked that the proposed gazebo was pretty substantial. Mr. Fedus stated that they would definitely pull the gazebo away and clarify the building construction. Mr. Fedus pointed out that large rocks were provided on the landscape plan to delineate the lawn area. Mr. Bascom asked whether the applicant thought about how trucks, such as garbage, FedEx, UPS and such, would turn around on the site without having to back out onto Boston Post Road. Mr. Fedus indicated that while the cul-de-sac is not big enough to make a complete turn, trucks would make K turns there. Mr. Fedus anticipated that they would end up making K turns in other spots. Mr. Fedus further indicated that they tried to provide additional parking for visitors, and that on Wildwood Avenue, for example, there would be available spaces for K turns to be made. Mr. Bascom clarified that he was more concerned on the Boston Post Road side. Mr. Fedus reiterated that trucks would make a K turn in the cul-de-sac. Mr. Bascom next remarked that he failed to see any hydrants shown on the maps at all. Mr. Fedus stated that there was one on Boston Post Road, and that he met with the Fire Marshal who said the one hydrant is adequate. Mr. Fedus added that he spoke with the Connecticut Water Company and they're going to clarify that. Mr. Fedus stated that if there needs to be a hydrant anywhere on the site, they would provide a hydrant on either location.

With no further questions from the Agency, Mr. Paul invited questions from the public. Mark Schofield of 29 Wildwood Avenue asked if the services would all come in underground, which Mr. Fedus confirmed. Mr. Scofield next asked whether the stormwater on the Wildwood Avenue side would all be taken into the existing storm drain system on that road. Mr. Fedus stated that the majority of the stormwater would be directed into that existing system, which would require cutting into the street and hooking in.

Edward Macomb of 36 Wildwood Avenue pointed out that there are a lot of gas pipes and things underground feeding the Madison House. Mr. Macomb was concerned that in excessive rain, the catch basin that serves the Madison House that a pipe would be connected to does not drain and the drywell does not work, and so the water floods up. Mr. Macomb suggested that this would be a good time to solve

that problem. Mr. Macomb was further concerned that the site plan does not depict all the driveways in the vicinity, and when this project is complete, there will be 4. Mr. Paul explained that that issue was a Planning and Zoning issue, and it would be most appropriate to bring that up there. Mr. Macomb stated that Wildwood Avenue is a very active street, and that he supports the project and thinks it's a great idea.

Mr. Bascom asked Mr. Fedus if the referenced drywell was shown on the plan. Mr. Fedus stated that it was not shown and he believed it to be north of the subject property. Mr. Fedus stated that although the drywell is located north of this property, he would be happy to work with Mr. Ott to do something about it if they could somehow tie it in. Mr. Paul asked Mr. Ott whether he would have a chance to review the new plans and comment for next month, which he confirmed he would. Mr. Kuchta reported that he received e-mails from Elizabeth Booth of 10 Northwood Road and from Barbara Davis of 97 Stone Road, both part of the file, who were not able to attend this hearing. Mr. Kuchta agreed to contact those individuals to inform them of the continued hearing. Mr. Newton asked whether the e-mails had comments pertaining to the content of the application or if they were just requests for postponement so that they could attend the hearing. Mr. Kuchta read both of the e-mails into the record.

Based on the fact that new material was received at this hearing, upon a motion by Mr. Newton, seconded by Ms. Yaeger, the Madison Inland Wetlands Agency unanimously voted to continue this public hearing to the next regular meeting April 6, 2009.

3. **08-18:** Applicant: Madison Inland Wetlands Agency. Request to amend various sections of the Town of Madison Inland Wetlands and Watercourses Regulations to bring them into conformity with State mandates.

Mr. Kuchta reported that he sent the final version of the revised regulations to Mr. Zizka about 10 days ago and has not received comments back. Mr. Kuchta stated that he hoped Mr. Zizka wouldn't have any comments on the final version other than to compliment them on a good job. Mr. Kuchta noted that many of the recent revisions were clerical changes as opposed to text related changes. Mr. Kuchta stated that unfortunately, they need to wait one more month to take action on the regulations. Mr. Kuchta clarified that the public hearing was still open and there is no time limit that restricts the Agency's creation of new regulations. Mr. Kuchta stated that if he didn't hear from Mr. Zizka within about a week and a half, he would e-mail the final copy out to members and they can just adopt it. Mr. Newton suggested that if comments are not received by two weeks prior to the next meeting, then Mr. Kuchta e-mail it to members and the Agency pass it at the next meeting. Mr. Paul agreed.

5. APPROVAL OF BILLS

There were no bills.

6. **APPROVAL OF MINUTES** – Regular Meeting, January 5, 2009
 - Site Walk, January 24, 2009
 - Regular Meeting, February 2, 2009

Mr. Paul recalled that they were unable to vote on the January minutes at the prior meeting because they did not receive the correct version. **Upon a motion by Mr. Mathieu, seconded by Mr. Newton, the Madison Inland Wetlands Agency unanimously voted to approve the regular meeting minutes of January 5, 2009 as submitted.**

Upon a motion by Mr. Newton, seconded by Mr. Mathieu, the Madison Inland Wetlands Agency unanimously voted to approve the site walk meeting minutes of January 24, 2009 as submitted.

Finally, **upon a motion by Ms. Yaeger, seconded by Mr. Bascom, the Madison Inland Wetlands Agency unanimously voted to approve the regular meeting minutes of February 2, 2009 as submitted.**

7. **LITIGATION:** Executive Session As Required – none.

Mr. Kuchta reported that he received an e-mail from Attorney Zizka regarding the Longshore Lane appeal, which stated the Appellate Court did grant the Petition for Certification so that the appeal may be heard.

8. **REMARKS – INLAND WETLANDS CHAIRMAN – none.**
– INLAND WETLANDS OFFICER:

Mr. Kuchta distributed the 2009 Inland Wetlands training program brochure, and noted that three sessions would be held. Mr. Kuchta stated that they should have at least one person attend at least one session because if they get any kind of legal action, the DEP would check to see if they've gone to the sessions. Mr. Kuchta instructed members who wish to attend to contact Mary Haburay in the Land Use Office, and recommended that Barry Nann might like to go in March or April since he is a new member.

Finally, Mr. Kuchta reminded members of the special meeting being held on April 29, 2009 at which Attorney Zizka would present to boards and commissions to keep them up to date on legal issues.

ADJOURNMENT

Finally, with no further business before it, **upon a motion by Mr. Falk, seconded by Mr. Newton, it was unanimously voted to adjourn the regular meeting of the Madison Inland Wetlands Agency at approximately 8:50 p.m.**

Respectfully submitted,

Samile Keeler
Clerk Pro Tem