



TOWN OF OLD SAYBROOK
**Inland Wetlands & Watercourses
Commission**

*J. Colin Heffernan, Chairman
Charles A. Wehrly, III, Vice Chairman
Charles W. Savage*

www.oldsaybrookct.gov

*Alyse Oziolor (Conservation)
Madeleine B. Fish (Zoning)
Paula S. Kay (Planning)
Vacancy (Economic Development)*

Alternate Members
*Elizabeth D. Steffen, Secretary
Janis L. Esty*

MINUTES
REGULAR MEETING
Thursday, January 21, 2021 at 7:00 P.M.
Via Teleconference

I. **CALL TO ORDER**

The Vice-Chairman called the teleconference to order at 7:06 p.m.

II. **ROLL CALL**

Members Present: C. Heffernan (present but muted until 7:08 due to technical difficulties), C. Wehrly, C. Savage (present but muted until 7:40 due to technical difficulties), P. Kay, A. Oziolor, E. Steffen, J. Esty,

Members Absent: M. Fish

Staff Present: P. Hegge, Environmental Planner; L. Wacker, Recording Clerk

III. **OLD BUSINESS**

“Kuljis” Violation

Cease & Desist Order

Construction of deck and retaining wall within the 100’ upland review area.

2 Cove Landing, (Map 16/ Lot 62-1)

Owner: Zoran R. Kuljis & Ann S. Lenz

ACTION: *Continue discussion of violation*

The owners were not present. C. Wehrly asked P. Hegge if he had any updates on this matter. P. Hegge reported that he drove by the Cove Landing property the previous day and nothing appeared to have changed- the deck and retaining wall were still there. At this point C. Heffernan joined the meeting with audio and resumed the meeting as chairman. He reported that there is a bigger enforcement action going on with other town entities and the IWWC is going along with that.

MOTION to continue the matter “Kuljis Violation” Cease & Desist Order for construction of deck and retaining wall within the 100’ upland review area at 2 Cove Landing (Map 16/Lot 62-1) until the February meeting, to leave the Cease & Desist Order in place, and await further developments; **MADE:** by C. Heffernan; **SECONDED:** by C. Wehrly; **VOTING IN FAVOR:** C. Heffernan, C. Wehrly, P. Kay,

A. Oziolor, E. Steffen, J. Esty; **OPPOSED:** None; **ABSTAINING:** None;
APPROVED: 6-0-0.

IV. NEW BUSINESS

21-001 “Warren & Loucks” Application to Conduct a Regulated Activity

Install generator and in-ground 500 gallon propane tank within the 100’ upland review area.

1 Merritt Lane, (Map 52/Lot 5-1)

Owner: Mark Warren and Lisa Loucks

ACTION: Received 1/21/2021, Review for completeness, Accept application and determine if regulated activities are significant.

Jonathan Malazzi, representing Quality Propane, was present on behalf of the applicant and explained the proposal to install a 500-gallon underground propane tank adjacent to an existing above-ground 57-gallon propane tank, and to install a generator 10 feet away which conforms to NFPA 58 codes and which would be tied into the propane tank installation. The Chairman asked if there were any questions from the commission. P. Kay asked how common this type of installation is in the Old Saybrook area. Mr. Malazzi responded that it is extremely, extremely common with both above and underground tanks. Generators have become much more popular based on recent power outages and storms. C. Wehrly asked if there is a required separation between the propane tank and the well. Mr. Malazzi responded that code requires a separation of 25 feet and the proposal conforms to that. C. Heffernan asked if the stone base would be a pervious gravel base, and what type of equipment would be required to excavate. Mr. Malazzi replied that was correct, and that it would require a small excavator and a small crane truck to install the tank, which could be accessed from the driveway. They would then backfill with clean fill and sand, and cover the site with topsoil. A. Oziolor asked if they planned to seed the topsoil. Mr. Malazzi replied they would lay seed and hay down in the spring. A. Oziolor asked if a straw wattle could be installed on the wetland side of the disturbed soil to prevent erosion until the seeding takes place. Mr. Malazzi replied that they could put a straw mat around the entire tank. C. Wehrly asked how long it would take to do the excavation and installation. Mr. Malazzi replied that the entire installation would take a few hours plus time for inspection, so a couple of days. A. Oziolor asked how far from the wetlands the proposal was located. C. Wehrly responded that it looks to be about 50 feet. Mr. Malazzi replied that the proposal takes place very close to the existing tank and infrastructure. P. Kay measured the distance as shown on the plan to be about 70 feet. J. Esty asked if they would need to dig a trench, and how deep it would be. Mr. Malazzi replied that it would be 18 inches deep as per code.

MOTION to accept the application (21-001) “Warren & Loucks” to install a generator and in-ground 500-gallon propane tank within the 100’ upland review area at 1 Merritt Lane, (Map 52/Lot 5-1) as complete, with no significant impact and no Ord. 71 fees required; **MADE:** by C. Heffernan; **SECONDED:** by E. Steffen **VOTING IN FAVOR:** C. Heffernan, C. Wehrly, P. Kay, E. Steffen, J. Esty; **OPPOSED:** None; **ABSTAINING:** None; **APPROVED:** 5-0-0.

A. Oziolor rejoined the meeting explaining that she briefly lost internet connection. She did not participate in the vote. She asked if a note would be added to the plan regarding the

erosion control measures they discussed. P. Hegge will follow up with Mr. Malazzi to make sure the note is added.

V. **DISCUSSION**

Review and discuss Section 4, As-of-Right & Non-regulated Uses. Determine if dredging a stream with no continual flow is exempt.

76 Bokum Road (Map 57/Lot 17)

Owner: Barbara C. Pear Agent: Joseph Wren, P.E.

Mr. and Mrs. Pear were present. C. Heffernan stated that it was his understanding that they were to get an opinion letter from Atty. Cronin saying he agreed that the activity as proposed was an as-of-right activity. He spoke with Atty. Cronin before the new year and he had hoped the letter went out by now. He asked P. Hegge if there was any update from Atty. Cronin and if that letter was all they were waiting for, or if there was more that needed to be discussed. P. Hegge responded that he has been trying to follow up with Atty. Cronin to have him generate an opinion letter that the proposed activities are either as-if-right or they are not permitted. He spoke with Atty. Cronin on Tuesday, and P. Hegge thinks that there may have been a misunderstanding because Atty. Cronin thought the matter had already been settled. P. Hegge has not yet received a letter from Atty. Cronin. C. Heffernan apologized to Mr. Pear for the delay, and said he would reach out to Atty. Cronin tomorrow. Mr. Pear stated that he had a conversation with Atty. Cronin and believes Atty. Cronin may be reluctant to generate a letter due to ongoing litigation related to other wetlands activities on Bokum Road. C. Heffernan suggested that the Pears could submit a formal application for the proposed activity as a alternative to getting a letter from Atty. Cronin. There was a discussion about putting together an application from the materials that the Pears have already provided to the commission. P. Hegge will look into whether they can do that. There was a discussion about why the previous application was considered incomplete and therefore not accepted. C. Heffernan reiterated that the Pears can submit a complete application which will be considered at the February meeting. In the meantime, C. Heffernan will speak with Atty. Cronin about the status of the opinion letter. If the letter is received, the Pears will not need to go through with the application. If it is not, the application can be taken up at the February meeting. P. Hegge will let Mr. Pear know what they hear from Atty. Cronin. Mrs. Pear reported that the December IWWC meeting minutes incorrectly stated that the previous dredging was done by her brother, when it should have stated the dredging was done by her cousin.

VI. **REGULAR BUSINESS**

C. Wehrly stated that C. Savage did not respond to the roll call but his phone number has been on the list of Zoom meeting participants and that he was shown as being on mute. At 7:40 C. Savage was unmuted and stated that he had been listening to the entire meeting, although he could not be heard.

A. **Meeting Minutes:** December 17, 2020

In addition to the error reported by Mrs. Pear (on Page 2 “brother” should be “cousin”), A. Oziolor noted a typo on Page 1 where “statues” should be “statutes”.

MOTION to approve the meeting minutes of December 17, 2020 as corrected; **MADE:** by C. Heffernan; **SECONDED:** by P. Kay; **VOTING IN FAVOR:** C. Heffernan, C. Wehrly, C. Savage, P. Kay, A. Oziolor, E. Steffen, J. Esty; **OPPOSED:** None; **ABSTAINING:** None; **APPROVED:** 7-0-0.

B. Correspondence & Announcements

P. Hegge reported that regarding the letter to Zoning Commission Chairman Mr. Friedman, he reviewed the site plan and there was no activity within the 100' Upland Review Area. P. Hegge determined that therefore there was no need for an inland wetlands permit.

C. Committee, Representative & Staff Reports

P. Hegge reported that regarding the proposal on 103 Mill Rock Road East, there is a letter outlining some revisions to the plan, and it is just for the commission's general information. C. Heffernan asked if this was something that would be coming before the IWWC or if they had already granted a permit for it. P. Hegge replied that a permit has already been granted. It does not appear to be anything that will need to come before the IWWC and he will check again to confirm that.

P. Hegge reported that the IWWC received a substantial invoice from Siegel, O'Connor, O'Donnell & Beck for legal fees which exceed the commission's budget. There was a discussion about the lawsuit to which the invoice was related. P. Hegge reported that he spoke with First Selectman Fortuna who advised him that the IWWC should pay the invoice. C. Wehrly suggested amending the agenda to add payment of the legal bill.

MOTION to amend the agenda to add Item D "Legal Bill for Evangelisti Litigation" under Regular Business; **MADE:** by C. Heffernan; **SECONDED:** by P. Kay; **VOTING IN FAVOR:** C. Heffernan, C. Wehrly, C. Savage, P. Kay, A. Oziolor, E. Steffen, J. Esty; **OPPOSED:** None; **ABSTAINING:** None; **APPROVED:** 7-0-0.

MOTION to pay the legal bill for \$7,072 to Siegel, O'Connor, O'Donnell and Beck PC; **MADE:** by A. Oziolor; **SECONDED:** by C. Heffernan; **VOTING IN FAVOR:** C. Heffernan, C. Wehrly, C. Savage, P. Kay, A. Oziolor, E. Steffen, J. Esty; **OPPOSED:** None; **ABSTAINING:** None; **APPROVED:** 7-0-0.

A. Oziolor asked if the IWWC could request an increase in their budget to account for these types of things. C. Wehrly stated that this is the time of year when the next fiscal year's budgets are being formed. C. Heffernan will submit that budget request.

C. Wehrly asked if P. Hegge would address the correspondence regarding Daniels Propone. C. Heffernan replied that P. Hegge had earlier stated it was an update for a project that they had already approved. P. Hegge stated that he doesn't think this needs to go forward with wetlands but will look it over again and will email C. Wehrly.

P. Kay stated that as it is a goal of the Town to simplify and make things more user and business-friendly, would the IWWC entertain an effort again to get the commission hearings

down to one session only. This agency is the only one that requires two meetings for applicants. They could discuss the matter and then return to it at the next meeting. Christine Nelson had brought it up in the past, and found that if the names of the applicants were published that could serve as the first meeting, but the idea foundered on that issue. P. Kay stated that she felt it was worth looking into again. C. Heffernan agreed that it was something to explore, and that he would love to have a process that was streamlined. They would need to look into the enabling statutes to determine if it is something they are allowed to do. The commission members discussed the matter and concluded that C. Heffernan will speak with Atty. Cronin about the it.

VII. **ADJOURNMENT**

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| <p>MOTION to adjourn the meeting at 8:00 p.m. to February 18th, 2021 at 7:00 p.m. via teleconference; MADE: by C. Heffernan; SECONDED: by A. Oziolor; VOTING IN FAVOR: C. Heffernan, C. Wehrly, C. Savage, P. Kay, A. Oziolor, E. Steffen, J. Esty; OPPOSED: None; ABSTAINING: None; APPROVED: 7-0-0.</p> |
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Respectfully Submitted,

Lynette Wacker
Recording Clerk