



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

www.oldsaybrookct.gov

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

*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, March 18, 2021 at 7:00 P.M.
Via Teleconference

I. CALL TO ORDER

The Chairman called the teleconference to order at 7:01 p.m.

II. ROLL CALL

Members Present: C. Heffernan, C. Wehrly, M. Fish, C. Savage, P. Kay, E. Steffen

Members Absent: A. Oziolor, J. Esty

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*

P. Hegge reported that when he went to the property on March 4 he observed the deck framing and both retaining walls were still there. The lawsuit is in progress and Mr. Kuljis has been served by the state marshal. The property owner Mr. Kuljis was present and C. Heffernan asked Mr. Kuljis if he had anything to say regarding the Cease and Desist Order. Mr. Kuljis asked if the commission has the document he submitted for the wetlands permit. P. Hegge listed a number of documents that the commission has received regarding this matter. Mr. Kuljis asked if he could get a copy of the application he submitted. P. Hegge agreed to email the application to Mr. Kuljis. Mr. Kuljis stated that he doesn’t know what the commission’s concern is and which regulation they are imposing. C. Heffernan stated that the commission was very clear about what they wanted Mr. Kuljis to do. Mr. Kuljis stated that he does not feel he has committed any violations. C. Heffernan stated that Mr. Kuljis went beyond the permit he was issued. P. Hegge added that the deck and retaining wall were not approved, only the shed was

approved. Mr. Kuljis explained the work he has done and stated that he did not violate any codes or regulations regarding the IWWC. C. Heffernan stated that at the October 2020 IWWC meeting all of this was discussed and the commission requested that Mr. Kuljis provide a new permit application for the deck and retaining wall. C. Heffernan asked if Mr. Kuljis provided the new application. Mr. Kuljis stated that he does not need to do that. After further discussion with Mr. Kuljis, C. Heffernan asked the members if they had any questions for Mr. Kuljis.

P. Kay stated that she would like to emphasize that asking Mr. Kuljis to fill out a new application is not saying that he did anything wrong. It is an administrative procedure and a safeguard to make sure things are being done properly.

P. Hegge stated that the construction of a deck and retaining wall within the upland review area are regulated activities. Mr. Kuljis asked where those regulations are. C. Heffernan answered that they are the Town of Old Saybrook Inland Wetlands and Watercourses Regulations, and asked Mr. Kuljis if he recognizes that the wetlands regulations and the building code are different. Mr. Kuljis replied yes, and again talked about the work that was done and the application that he originally submitted. C. Heffernan asked if Mr. Kuljis had anything else to add. Mr. Kuljis replied no.

C. Heffernan asked if any members wanted to make a motion regarding the Cease and Desist Order. No one made a motion.

C. Heffernan stated that the Town Zoning Enforcement Officer and Building Official have pending litigation with Mr. Kuljis. The IWWC has asked Mr. Kuljis for a new application and it appears they are not going to get it.

C. Heffernan made a motion to fine Mr. Kuljis \$1,000 per day until he submits a permit application for the deck and retaining wall. E. Steffen seconded the motion. C. Heffernan opened the matter for discussion. P. Kay asked if the fine could be less. C. Heffernan said that they could make it less. C. Wehrly stated that he remembers there was an issue possibly with allowable square footage of the barn because it is in a flood zone, and there may be no additional square footage allowed. C. Heffernan stated that they could seek to be cited in as plaintiffs with the existing litigation. C. Savage asked if they could impose a penalty but waive it pending the outcome of the trial. P. Kay added that perhaps they could do nothing pending the outcome of the lawsuit, and explained that her hesitancy is because the original submitted drawing and application show the deck. C. Heffernan stated that it does not address the retaining wall. He suggested asking their attorney for an opinion as to the range of enforcement options available to the commission. They could continue the matter to the next meeting and ask their attorney to draft three options- low, middle and high- and if Mr. Kuljis does not submit a permit application they can choose one of the options.

MOTION to impose a fine of \$1,000.00 per day on Mr. Kuljis in 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 he submits a new IWWC application for the deck and retaining wall that were constructed; **MADE:** by C.

Heffernan; **SECONDED:** by E. Steffen; **VOTING IN FAVOR:** none; **OPPOSED:** C. Heffernan, C. Wehrly, C. Savage, P. Kay, E. Steffen; **ABSTAINING:** M. Fish; **DENIED:** 0-5-1.

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 next regularly scheduled meeting in April, and ask the town attorney to prepare three enforcement motions; **MADE:** by C. Heffernan; **SECONDED:** by E. Steffen; **VOTING IN FAVOR:** C. Heffernan, C. Wehrly, C. Savage, P. Kay, E. Steffen; **OPPOSED:** None; **ABSTAINING:** M. Fish; **APPROVED:** 5-0-1.

IV. **NEW BUSINESS** – None.

V. **REGULAR BUSINESS**

A. **Meeting Minutes:** February 18, 2021

MOTION to approve the meeting minutes of February 18, 2021 as presented; **MADE:** by C. Heffernan; **SECONDED:** by P. Kay; **VOTING IN FAVOR:** C. Heffernan, C. Wehrly, C. Savage, P. Kay, M. Fish; **OPPOSED:** None; **ABSTAINING:** E. Steffen; **APPROVED:** 5-0-1.

B. **Correspondence & Announcements**

P. Hegge asked if everyone had a chance to review the memo to Mr. and Mrs. Pear regarding 76 Bokum Road (Map 57/Lot 17), and stated that Mr. Pear was happy with it.

P. Hegge asked if everyone had a chance to look at the jurisdictional ruling form for as-of-right or non-regulated activities. DEEP does not need to approve the form but if the form requires the IWWC regulations to be amended, DEEP will need to see the proposed amendment. C. Heffernan stated that he likes the idea of the form but it could be tweaked a little to be more general. He would like the form to have a space for the applicant identify the proposed activity. The potential for fees was brought up and will be taken up at the next meeting.

C. Wehrly announced that there is a Gathering of Land Use Agencies for the 2021 Housing Forum on Tuesday, March 30th at 6:00 pm.

E. Steffen reported that they received a legal bill for the Evangelisti/Bagnati litigation.

MOTION to pay invoice #16140 for legal fees in the amount of \$429.00 to Siegel, O’Connor, O’Donnell and Beck PC; **MADE:** by C. Heffernan; **SECONDED:** by P. Kay; **VOTING IN FAVOR:** C. Heffernan, C. Wehrly, C. Savage, P. Kay, M. Fish, E. Steffen; **OPPOSED:** None; **ABSTAINING:** None; **APPROVED:** 6-0-0.

C. Committee, Representative & Staff Reports

P. Hegge reported that he issued an administrative permit for 351 Boston Post Road (Map 42/Lot 10-1) for a project involving minimal disturbance.

P. Kay asked if there had been any thought given to the idea of condensing into one meeting some of the Inland Wetland hearings. C. Heffernan said he would contact Attorney Cronin with that question. C. Wehrly remembered Atty. Cronin saying that two meetings were required.

VI. ADJOURNMENT

<p>MOTION to adjourn the meeting at 7:52 p.m. to April 15th, 2021 at 7:00 p.m. via teleconference; MADE: by C. Heffernan; SECONDED: by E. Steffen; VOTING IN FAVOR: C. Heffernan, C. Wehrly, C. Savage, P. Kay, M. Fish, E. Steffen; OPPOSED: None; ABSTAINING: None; APPROVED: 6-0-0.</p>
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Respectfully Submitted,

Lynette Wacker
Recording Clerk