



TOWN OF GREENWICH

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Beth Evans

Director of Environmental Affairs

MINUTES MARCH 25, 2024

In attendance: Brian Harris, Chairman; Elliot Benton, Vice Chairman; Robert Rimmer; Ted Walworth; Jay Schondorf; and William Baker.

Also in attendance: Beth Evans, Director; Sarah Coccaro, Assistant Director; Jennifer Urena, Compliance Officer; Kristen Lodato, Assistant Compliance Officer; John Knuff, Hurwitz Sagarin Slossberg & Knuff LLC; Bret Holzwarth, Redniss & Mead, Inc; Bill Kenny, William Kenny Associates; Barry Gosin; Rachael Orsi, S.E. Minor & Co.; Gigi Ma, S.E. Minor & Co.; Robert Getz; Amanda Ganim; Joseph Elmlinger; John Tesei, Gilbride Tusa Last & Spellane LLC; Fred Jacobsen; Jay Fain, Jay Fain & Associates LLC; Tom Heagney, Heagney Lennon & Slane LLP; Jim McManus, JMM Wetland Consulting Services LLC; Peter Thoren; Bryan Muller, Muller Engineering LLC; Rich Baranello; Katerina Violi; Gary Cunningham; Lorie Cunningham; Charlie Mills, Mills Engineering LLC; Tony D'Andrea, Rocco V D'Andrea Inc; Terri Browne Kutzen; Matt Regan, Tighe & Bond; Cheryl Russ, Glengate Company; Avi Barkai; Michael Lombardi; and Grant Gyesky.

1. Call to Order

Brian Harris called the meeting to order at 7:00 p.m.

2. Seating of alternates

All six Members were seated. Welcome to William Baker, the newest Agency Member.

3. Review and approval of draft minutes of February 26, 2024 Regular Meeting.

No questions or comments made by the Agency Members.

Brian Harris made a motion to approve the draft minutes of February 26, 2024. Seconded by Robert Rimmer, and carried, 5-0-1. Approved with abstention from Bill Baker, who was not in attendance of the February meeting.

4. Director's Report

No director's report, due to the length of Agenda.

Public Hearings

1. #2024-003 – [0 Pecksland Road](#) - Redniss & Mead for Kyle & Ninni Rose Milne – New residence. Tax #10-1891. (Second 65 days 5-31-24).

Sarah Cocco stated that the Agency was introduced to this property at last month's meeting. A decision was delayed in order to open a public hearing at this month's meeting. Agency Members Harris, Benton, Baker, Schondorf, and Rimmer visited the site with Staff and the applicant's authorized agents on March 12th and March 13th. The Agency Members asked to see alternatives that bring the development closer to the road and include a shared driveway with 48 Pecksland Road. Alternatives were requested that would better fit with the topography of the site and require less earth work and rock removal. A cross section view of the development is needed to understand how it ties into the surrounding topography. Materials were submitted over the weekend, which Bret Holzwarth can speak to. Last month, discussion was kept to a minimum. This is a vacant 1.96-acre, forested lot. It is narrow and bisected by a wetland and watercourse corridor. Almost all of the upland portion of the lot falls within the 100ft Upland Review Area. Most of the upland is located over shallow ledge or ledge outcrop, which forms steep slopes. Approximately 0.7 acres are proposed to be cleared for grading the residence, at closest of 5 feet from the onsite wetland and watercourse system. This lot cannot be developed without extensive ledge and vegetation removal.

The IWWA previously commented on the request for Planning & Zoning to confirm 48 Pecksland Road as a recognized building lot. To summarize the comments by Patricia Sesto, dated December 17, 2021, "The Conditions of the parcel are such that development would be highly destructive to the extensive ledge outcrops and watercourse/wetland corridor that flows through and comprise roughly 1-acre of the parcel. Ledge outcrops and shallow-to-ledge areas compromise another ½ acre." The letter goes on to state that "If the lot is confirmed as a building lot, the IWWA will be compelled to approve some sort of development consistent with what is permissible in the RA-2 zone." The letter states, "Planning and Zoning Commission needs to be aware that IWWA cannot deny all development on a confirmed building lot. This would amount to a taking. Consequently, we are concerned that lot confirmation will be followed with an IWWA application where the Agency is forced to accept a proposal that does not serve the goals of protecting wetlands, watercourses, and the protective upland review area." Two alternate designs were submitted with the application. One showed an alternative design for the driveway, a larger rain garden area, a larger pool, and an accessory building in the rear. Another plan showed five alternate septic locations, four of which were still within the URA, and a fifth location about 100 feet from the wetlands. During the site walks and in the Staff Report, Staff asked for an alternative with less impervious coverage, including a smaller house footprints and/or removal of the pool. This should be presented to the Agency to get an understanding of the extent of sub surface detention and retention structures. This has not been submitted.

The biological narrative submitted by William Kenny Associates states there will be no impact to the wetlands or their capacity to perform wetland and watercourse functions. Staff disagreed with that. Staff has questions on the number of trees that were proposed to be removed. There are 36 trees within the URA and another 19 to be removed across the site. Staff had questions on the deforestation of the property, as well as, increased solar penetration and stormwater discharges in close proximity to the wetlands. 0.7 acres is proposed to be striped of trees. There are 36 trees, sized 8 inches dbh or greater, within the URA proposed to be cleared for construction. A wetland and buffer habitat enhancement plan was submitted with the application that proposes to replant

10 understory trees, 34 shrubs, and over 1,800 native ground cover plugs. They also proposed to do invasive removal. Given the number of mature trees to be removed, Staff felt that the proposed mitigation measures were inadequate. DPW has done an initial review, and they produced two comments. One comment was related to the installation of staging and material storage, which should be submitted as part of the erosion control measures. They are also requesting more robust erosion and control measures to protect the wetland and stream, such as a temporary sediment basin and a double silt fence with hay bales. Staff has not had time to thoroughly review the new materials that were submitted.

John Knuff, from Hurwitz Sagarin Slossberg & Knuff LLC, is an attorney representing the applicants. Mr. Knuff stated that this application is to conduct regular activity on the subject property. 0 Pecksland Road is 1.96 acres in the RA-2 zone. He added that Fred and Bill have taken great care in their design of the house and surrounding infrastructure to make sure there is no harm to any wetland or water resource.

Bret Holzwarth, a CT licensed civil engineer from Redniss & Mead, stated that the plan proposed a single-family residence, modest-sized pool, small driveway and motor court, patio spaces, and drainage mitigation with a rain garden. The house will be built into the topography. The garage entrance will be at street level. The first floor is above it. The applicant revised and resubmitted erosion controls, based on the DPW comments. The rain garden area will be used as a temporary sediment trap during construction. There will be a more robust double row of silt fence with haybales along the perimeter of the wetland corridor. This area of town is on septic, so they are proposing a septic system in the farthest corner from the Wetlands. It is outside of the 100-foot URA in the northwestern corner. The septic will need about 2 to 4 feet of fill due to the ledge restrictions throughout the site. Mr. Holzwarth stated that this is the best feasible location for the septic. It will be proposed to the Health Department. The proposed stormwater mitigation is per the DPW manual. Those components include the rain garden and underground infiltration galleries along the driveway and motor court. That area had good test pits to allow for infiltration. A green roof has been added to a portion of the roof, which will further treat for water quality and provide mitigation. The rain garden will be constructed using walls to help with the grade and to delineate the development envelope. This will help maintain a buffer between the development and the wetland corridor. Bill Kenny prepared a construction sequencing plan that outlines how the site will be developed while protecting the resources. Mr. Holzwarth added that the lot is just under 2 acres. They proposed to disturb 0.7 acres. About 2/3 of the site will remain undisturbed and undeveloped. The resources will be enhanced by Bill Kenny's plan, including invasive species control and enhanced wetland buffer habitat.

Elliot Benton asked how many trees will be taken out. Mr. Holzwarth stated 36 trees will be removed in the URA, and around 50 trees in total. Mr. Benton asked if they have looked at alternatives that do not take out so many trees. Mr. Holzwarth stated that they looked at the other alternative plans provided. He stated that this is a typical development, in comparison to surrounding areas and others in the neighborhood. The applicants chose not to expand on those other alternatives. Mr. Benton commented that the alternatives provided only deal with septic locations, but they were explicitly asked to look at smaller footprints for less impact to this sensitive area. Mr. Holzwarth stated that they are content with the alternatives provided. Mr. Benton asked how much stone will be taken out, in cubic feet. Mr. Holzwarth stated that no stone will be taken out from the wetland. It will be removed from the URA, and the wetlands are protected. Mr. Benton commented that the applicant is ignoring the fact that the buffer is extremely important protection for the wetlands. His objection is due to the denuding of a significant portion of the URA. Mr. Knuff commented that this

Agency does not regulate the buffer, but wetlands only. Mr. Benton objected to that. Brian Harris stated that they will continue to review the application. The IWWA is charged with reviewing URA impacts, as it related to wetlands impacts.

Mr. Harris asked about the square footage of the green roof proposed versus impervious surface proposed. Mr. Holzwarth stated that the green roof is about 25% of the dwelling, equating to a little over 1,100 square feet of green roof. The shape and size have not been developed yet, but the roof is flat with several layers. The uppermost roof will be a green roof that will tie into the drainage system.

Ms. Coccaro offered an answer to Mr. Benton's earlier question. 2,191 cubic yards will be excavated and 1,267 cubic yards of estimated fill. There is a net of 900 cubic yards to be removed, which is not just ledge alone. Mr. Benton was more interested in stone removal, which will require blasting or hand removal, which presents a risk. Mr. Holzwarth did not have the exact quantity because they are unsure how deep the stone is. He estimated that the majority of the cut in this development would be rock removal.

Bill Kenny, professional wetland scientist, soil scientist, and landscape architect from William Kenny Associates, stated that he first visited the site to identify and delineate the location of the wetland and watercourses on the property. He returned to inventory and assess the conditions of those resources and the upland areas that border them. He worked with the project team in looking at potential short-term impacts during construction and potential impacts following construction to develop a design that avoids those impacts. The property is just under two acres. The property is undeveloped. The northern and central portion portions are wooded. The southeastern corner has lawn related to a home off site to the east. The southwestern area is a shrubland and meadow area. The wetland and watercourse system moves through the property, flowing from the northeast to the southwest. It involves a small stream and a small man-made pond at the southern end of the property. Wetlands border the stream and the pond. Much of the wetlands in this area have been disturbed over decades from the construction of the pond and alterations to the stream. The soils that border the pond are mostly man-made soils. When that pond was created, it was likely a natural wetland system where the soils were excavated. The lawn area contains a lot of fill from when that wetland was excavated, and the pond created. The wetlands on the northern portion of the property bordering the stream have been filled in some ways and altered. Their drainage has been affected so that they are now much drier than they were historically. There has been a lot of alteration over the years, and there are issues with the invasive vegetation primarily in the southern portion of the site. There is lawn that abuts much of the stream and the pond in the southeast corner of the property. There is a fair amount of invasive vines and shrubs in the southwestern portion of the property. The woodland in the central and northern portion of the property has a canopy primarily of native trees. There is little to no shrub layer and the ground cover is mostly invasive pachysandra, garlic mustard, and some native ferns. There are significant bedrock outcrops and a ridge line that runs parallel to the west side of the stream. It runs from the northeast to the southwest. Another smaller ridge is found in the very northeast corner of the property. The watershed that feeds this stream is about 140 acres. The primary source of water for the stream, wetlands, and the pond is that watershed. The development area is about 0.7 acres, which is less than half a percent of the overall 140 acres.

Mr. Kenny continued, stating that the house proposed in the northern portion of the property is situated as close to the road as possible, based on zoning setbacks. He stated that it is a relatively modest sized house. The area of residential yard has been limited substantially, although a pool is

proposed. If a pool were not proposed in that location, it would be lawn access around the structure. For that reason, Mr. Kenny does not see the pool proposal as unreasonable. He stated that the driveway is modest for a project like this in Greenwich, and the amount of disturbance is quite minimal compared to many projects that come before the Agency. The earthwork itself is not significant, but it is relatively close to the wetland. Short term, there will be no activity in the wetland, except for removal of invasive vegetation or installation of native vegetation. The potential impact results from soil erosion and sedimentation. Mr. Kenny stated that the watershed for the development area is very small, and there is not a much larger watershed above it that drains through it. This watershed is just the development area itself, which makes it easier to control the site and prevent erosion. The next contributing factor to controlling erosion is, once the soil surface is removed and rock removal starts to occur, there will be little to no soil to erode. They prepared a six-phase construction phasing plan. With each phase, there is a section view with sequencing notes. They included an estimated duration, the amount of soil disturbance, and the number of workers that might be on site during each phase. They will install haybales and a double row of silt fence between the wetland and the proposed development. Before any soil disturbance, they propose to install the southern boundary demarcation retaining wall. The top two feet of the wall will be left exposed. This will be an impenetrable fence that will extend into the ridge line. The whole area behind that wall would become a sediment trap. The area draining towards the wetland is half an acre, and 2/10 of an acre drains to the northwest, away from the wetland. That wall is substantial and very helpful in its ability to control sedimentation and protect the wetland. The next phase shows the excavation for the basement floor foundation and footings. As the project progresses, the amount of disturbance will start to diminish. The walls will be installed, septic put in place, drainage system installed, and lastly, the landscaping work.

The submission made on Friday included the addition of the green roof, which is about a quarter of the total roof. They also eliminated the lawn area in the rear yard and left a walking path to a sitting area at the very southern end. This area would be converted to a meadow. They propose to eliminate the pachysandra in the woodland and replace it with native ground covers. The plan will introduce shrubs between the development and the wetland. Where there is little to no shrub layer now in that woodland, so they will be introducing native shrubs. In response to the point made about tree clearing, Mr. Kenny stated that the impacts have to do with water and sun exposure of the environment. The proposed development is on the northern side of the stream and the wetland. This development will not be introducing extra sunlight into that wetland because the trees within the wetland will be shading it with the sun primarily shining from the south. However, the pond today has very little shading of its water surface, which can lead to elevated water temperatures in the in the heat of the summer and impact aquatic life. So, they are proposing to plant trees along the edge of the pond and introduce shade to the pond to help regulate water temperatures and prevent extremely hot water temperatures in the heat of the summer.

This proposed project has impervious surface coverage of about 11%, not including the green roof. Mr. Kenny stated that literature studies all over the country and around the world acknowledge that, if impervious surfaces are kept at 12% or less without any BMPs, the quality of streams and ponds can be maintained. That was indicated in the 2004 Stormwater Quality Manual from Connecticut and is still indicated in the new manual that will be effective at the end of this month. There is a subsurface infiltration system by the driveway and a substantial rain garden to the southeast of the house. Mr. Kenny stated that buffers are very important, primarily for water management. The BMPs perform the functions that a buffer provides for the stream. BMPs detain water to prevent flooding and filter to clean it. The 2024 drainage manual indicates specifications for infiltration devices. If the devices pick up stormwater runoff from a driveway, they should be

positioned at least 50 feet away from a wetland. That is the case with the subsurface infiltration chambers proposed for the driveway. When collecting water from a roof surface, which is relatively clean, the devices have no recommended separation distance from a wetland or stream.

Brian Harris asked if the driveway is pervious with under draining or if the stormwater will be collected and sent through a detention system. Mr. Holzwarth stated that the driveway will be impervious asphalt and the water will be collected with area drains connected to the galleries. Mr. Harris asked if the house is consistent with the RA-2 setback. Mr. Holzwarth stated that zoning regulations allow undersized homes to drop a zone for yard setbacks. The setback for this property is the RA-1 setback, which is 50ft. The RA-2 setback is 75ft.

Mr. Benton asked Mr. Kenny if the URA buffer is important to the health of a wetland. Mr. Kenny stated that, in the absence of any other control measures, by itself it is very critical. Mr. Benton asked if it is possible to eliminate the rain garden and still meet the drainage manual. Mr. Holzwarth stated that they would not be able to meet the manual requirements related to the impervious. Mr. Benton asked if less proposed impervious would have far less impact to the URA. Mr. Holzwarth responded that it would not have far less impact. They would still need a significant storage system and cannot eliminate the rain garden entirely. They need to have an LID type system, which includes rain gardens. Underground infiltration does not qualify as LID. They would need to put some other system in place. Due to ledge and restrictive layers, the rain garden location proposed is best, being downhill of the development. It provides water quality treatment and a physical barrier to the wetland. Mr. Benton commented that the rain garden is very close to the wetland, at about 7 feet. Mr. Holzwarth stated that there is less stone removal there at the buffer. This area will be built up instead. Mr. Kenny added that there is a depth of 5 to 7 feet of soil in that area, which was best for rain garden infiltration.

Mr. Benton estimated the house footprint to be about 4,500 square feet with another 5,000 square feet of impervious. The total impervious is 0.22 acres or 9,500 square feet. If the house were a great deal smaller, Mr. Benton says the total impervious would decrease, requiring less stone removal, and thus, less impact to the URA and less tree removal. Trees are important to the wetland buffer for reasons other than shading. He suggested moving the house closer to the road with a zoning variance. Mr. Holzwarth stated that a zoning variance would require a hardship. He added that the proposed location is much closer to the road than other houses in the area. If the rain garden is eliminated, that would save three trees. The majority of the trees to be removed are in the area of the building, regardless of building size. Mr. Benton commented that the applicant could get a zoning variance with the argument that Wetlands is upset about the house's current proposed location. If the house is moved to the north, could there be less impact to the URA? Mr. Holzwarth stated that it is difficult to say. Based on Mr. Kenny's report, he feels that they are providing an adequate buffer and mitigation. Mr. Benton suggested that the house size be reduced and move the driveway to the west, leading to far less impact than proposed.

Mr. Knuff stated that they will be asking the Commission to consider the application submitted. Mr. Knuff does not see any negative impact to the wetland and watercourse area. They are going to stay with the application sizing and locations submitted. Staff did not agree that there is no wetland impact with the work proposed in the URA. Beth Evans commented that a tremendous amount of material was received on Friday with no chance for Staff to review.

Mr. Benton added that he would recommend denial. Mr. Knuff stated that Mr. Holzwarth and Mr. Kenny are both experts, on whose opinion the Agency should rely.

During the site visit, Mr. Harris discussed the potential of sharing access with the adjacent property, which is also the owner of this parcel. The proposed driveway is coming in from the east. Mr. Harris asked if the rain garden can be shifted to the north, since the driveway will be coming in from a different quadrant, and pull the development further from the stream. Is that a feasible alternative? Mr. Holzwarth would have to look into that. The proposed driveway location was ideal for a standalone property. Mr. Holzwarth said that they will need to improve the sight distance by removing ledge in the right of way. The ledge currently comes up to the edge of the road. Mr. Harris asked if DPW saw this as a problem currently. Mr. Holzwarth stated that a DPW permit would be required for the ledge removal with Wetlands approval first. The ledge would be removed before any other development on site. Mr. Harris asked if the sight distances would be adequate if the driveway branched off of the adjacent driveway. Mr. Holzwarth said those sight distances would be okay, but it would add more disturbance close to the wetland corridor. Also, a ridge of ledge would need to be removed in order to get a driveway connection from the neighbor's driveway to the garage.

Mr. Benton asked if they could swap the driveway area with the septic area. Mr. Holzwarth responded that they could not. The septic has a certain requirement for setbacks from the building and infiltration systems. That side of the development needs the infiltration and stormwater, so they cannot swap the septic for the galleries. The septic area now is furthest from the wetland and is a suitable area. The septic cannot be within 25 feet of footing drains. The house will have no footing drains on septic side. The septic is also as close to the property line as feasible. The septic would not be able to fit there if the house were moved north. Mr. Holzwarth stated that this is the best layout for the site and is compliant with regulations.

Ted Walworth asked what would happen after a large rain storm with a lot of water volume, given the walls surrounding the rain garden. Will it overflow into the wetlands without filtration? Mr. Holzwarth indicated a weir proposed in the wall of the rain garden. The weir is a foot lower than the rest of the wall to act as an overflow for larger storms. There is rip rap proposed below to protect from erosion.

Ms. Coccaro has previously asked for a hydrological report that addresses how the ledge removal will alter groundwater patterns. Mr. Holzwarth stated that, the disturbance on site is 0.5% of the watershed. Any disturbance due to fracturing or ledge removal would not impact the amount of flow going through the river system. A watershed map and letter were submitted with the materials on Friday. In reference to the ledge removal along the road, DPW commented that the removal of any tree, shrubs, and vegetation would be required to meet the sight distance. The Tree Warden would need to approve those removals in the town right of way to meet the sight distance. However, Ms. Coccaro added that the comments do not say anything indicating that this would be more safe. If the driveway were put in that location, that is what would have to be done. It is not currently unsafe with the existing driveways that are there. Mr. Holzwarth commented that, whenever a driveway is proposed, it must meet the sight distance requirements. In his opinion, that outcropping is unsafe, being within feet of fast driving cars.

Mr. Harris commented that the Town should have this plan reviewed by an independent engineer. Ms. Evans agreed. She added that there was a great deal of information submitted on Friday to be reviewed. There are also a number of comment letters from neighbors that have been forwarded to the Agency, with little time to review.

Barry Gosin, owner of 54 Pecksland Road, has hired S.E. Minor & Co to review and make comments. He expressed concerns about the ledge removal and additional impervious surface on this property that is mostly wetlands.

Rachael Orsi, from S.E. Minor & Co, represented the owners of 54 Pecksland Road. She stated that their concerns remain the same as those submitted last month, given that no plan revisions were submitted. They look forward to reviewing any revised plans with the hope that the applicant addressed their concerns for this development. There are numerous other neighbors that have expressed their concerns to S.E. Minor & Co. They are aware of 40, 43, 46, 49, 52, 54, and 61 Pecksland Road, along with 82 Round Hill Road and 62 Vineyard that also have concerns. The concerns relate to the proximity of the development to wetlands, the amount of ledge to be removed, substantial tree cutting of over 800" dbh removed, and concerns about construction traffic and parking. Ms. Orsi felt there would be an impact to the wetlands onsite due to the removals and disturbance in close vicinity. S.E. Minor is working with a soil scientist to review the plans and provide an analysis once complete.

Gigi Ma, CEO of S.E. Minor & Co, commented that this is a very ambitious development. S.E. Minor is familiar with the site and understand that there was a violation that occurred on this site a few years ago.

Robert Getz, owner of 46 Pecksland Road, has lived at his property for over 23 years, which is adjacent to 48 Pecksland Road. They have been keen observers of the neighborhood and their own property. They stand by the consistent statements made in the letters of December 17th and January 22nd, which were directed to Planning & Zoning. The majority of the comments relate to their concerns relative to the Wetlands. The applicant has had issues with Wetlands violations, as referred to by S.E. Minor. They are disappointed with Mr. Kenny's observations and conclusions, which seemed without merit or true understanding of the site and seem to be self-serving, particularly given conditions that occur in this area. On Saturday, Mr. Getz could see the small stream flowing over its banks and spilling into areas over the side of the green area, possibly 2 or 3 feet above the stream. In September 2021, this stream overflowed all the way over Pecksland Road and all of the lower green area. In that instance, the rain garden with concrete walls would end up becoming a dam. This flood in 2021 also resulted in the flooding of a home on Wildflower Lane, resulting in a flood of their basement. This property is an integral part of the Byram River watershed. The Byram River watershed provides numerous ecosystem services including water filtration, flood control, and wildlife habitat through a huge corridor of Greenwich. To isolate this as being a small percentage, and therefore risking a little damage, Mr. Getz and his wife find particularly upsetting. The members of the committee that have been out to the site have seen these towering ledges which would be removed, resulting in the removal of 2,200 cubic yards of rock, the sloping environment, and the runoff that will all go down into this wetland area. The driveway of the applicants, 48 Pecksland Road, was underwater and destroyed in 2021. This last weekend, there was pools of water all around the property, some of which may be vernal. This system and the damage to the upland environment will be incredibly detrimental for this neighborhood. The neighbors are also concerned about the reclassification from RA-2 to RA-1 to allow for this project. Bringing the house even closer to the road is going to be an issue. The whole rain garden is in a flood plain. All of the property that is below land is a flood plain, and it is evidenced over the years that Mr. Getz has lived there. Mr. Getz has seen that land flood four times at least, completely submerged by water. Mr. Getz objects to any development of this property, based on the sensitive nature of these wetlands in particular, and the egregious proposed development which Mr. Kenny and Mr. Holzwarth seem to make light of. Their attorney makes it clear that they have no intent of changing their plan.

Mr. Benton asked if there are confirmed vernal pools near this development. Mr. Getz commented that there is a vernal pool on his own property and in other developments in the area, but cannot confirm for 48 Pecksland. These areas see frequent alluvial flooding.

Amanda Ganim, owner of 52 Pecksland Road, has lived there for 12 years. There are extreme rock ledge formations on the wetlands. This is an unreasonable amount of rock blasting and tree removal that would have an impact on the wetlands and stream. Ms. Ganim has also seen the extensive flooding in that area. There are drainage issues in the front of the property and adjacent to her house. She believes this proposal to be ambitious, unreasonable, and unsafe.

Joseph Elmlinger, owner of 61 Pecksland Road, is a 24-year resident. He agrees with the observations of flooding made by the previous neighbors. It is not clear why this was able to become a lot in the RA-2 zone, if the lot was under 2 acres. The notion of moving the house even closer to the road undermines the whole point of the zoning. Mr. Elmlinger stated that the developers are going to extremes to shoehorn an unsuitable house into a place where it does not belong.

Mr. Harris commented that there are a lot of neighbor concerns, outstanding reports from S.E. Minor, and outstanding internal Agency reviews and a Wetlands retained review. The public hearing will be kept open to next month. The Agency agreed.

Mr. Benton asked if Staff could talk to Planning & Zoning to understand how 0.04 acres makes the difference to allow them to get down to RA-1 measurements. Ms. Evans agreed to get clarification on P&Z's review of this lot as a building lot.

2. #2024-017 – [148 Glenville Road](#) – Jay Fain & Associates, LLC for INCT LLC – Planting trees and shrubs to replace cut trees and shrubs. Tax #10-1317/s. (First 65 days 5-1-24)

Beth Evans introduced the next four hearings. These hearings are in response to a violation issued in November to this property and three other properties on Ashton Drive for unauthorized removal of trees and vegetation in the regulated wetland and Upland Review Areas. Some of this activity involved trespassing. That is the case for the 148 Glenville property. By the time surveys were done and the count was made, 186 trees over 4" dbh were removed, as well as an unquantified amount of shrubbery and emergent wetland vegetation. There were also a number of trees with lower limbs removed to create a limbing effect. Agency Members Harris, Baker, Rimmer, Schondorf, and Benton walked the properties in the last few weeks and have seen the damage. Staff has received extensive photographs from Fred Jacobsen, who called in the original complaint to the IWWA office. Mr. Jacobsen has provided a before and after photo series, that was provided to the Agency. Ms. Evans emphasized to the Agency that not all of these applications are equal. Some property owners may have approved of the clearing on their property. In this case, the 148 Glenville Road owner did not approve of the work done on their property.

John Tesei, attorney from Gilbride Tusa Last & Spellane LLC, is representing 148 Glenville Road with Jay Fain, Peter Thoren, and Fred Jacobsen. Mr. Tesei requested that the Agency hear this application independent of the applications for the other parcels. They have many comments for the other applications. Mr. Harris agreed, and asked Mr. Tesei to proceed.

Mr. Tesei stated that he has never seen anything like this. It is over 6 acres (over 260,000 square feet) of disturbance in varying degrees, involving trespassing. He stated that their clients are deeply disturbed and devastated by what happened to their property. They would like to see a very robust and corrective restoration plan; which Mr. Fain has prepared. They would also like to implement the plan as soon as possible. Mr. Jacobsen is in conversation with Sam Bridge about providing the process and procedures to implement the restoration plan, particularly in terms of bringing in the trees their clients would like to bring in. They would like to get a jump start on the future restoration of this land to be as substantially close to what the land was like prior to the intrusion. The client's property is about 90 acres. It is a vacant parcel in vicinity to another property of the owner. This property was bought to be maintained as forest. Mr. Tesei asked the Agency to take the bond amount into account, given the amount of money this is forcing their clients to spend to restore their property. More graphics will be provided at the next hearing.

Fred Jacobsen, the property director of the INCT property, reviewed the events that occurred. Mr. Jacobsen stated that this action went far beyond destruction of wetland vegetation. It was coordinated destruction of the entire ecosystem in that area. The perpetrators should restore the entire area as closely as possible to the way it was. The applicants should spare no expense to facilitate full restoration. They should do whatever is asked of them and not try to negotiate anything less than a full restoration. The perpetrators have displayed a lack of judgment and no appreciation for the wetlands. The Agency needs to take complete control and enforce the maximum penalties and complete restoration. Mr. Jacobsen commented that the people involved knew they would never be allowed to do this, if they had applied for a permit, so they did it anyway. The restoration should include canopy, understory bushes, and wetlands plants to mimic what was there. It should not be a plan that takes decades to look the way it did before.

On November 10th, 2023, Mr. Jacobsen responded to the sound of chainsaws, when he came across a massive cutting effort, which looked to have been going on for days. There were more than 10 workers engaged in cutting and clearing. There was a plywood path laid out to provide access for trucks and a chipper to the cutting area. Access was provided from the Vik property. When Mr. Jacobsen walked over, the entire group of workers started running from the area and grouping up to leave the premises. He called the Wetlands Department, but due to Veterans Day weekend, there were shortened hours. He was directed to call the police, which he did. RP Eddy, president of Ashton Association, was present. INCT owns a lot in the Association, so it was clear that they were working on INCT land, as well as Ashton Association land. INCT is a member of the Association, but this cutting was never discussed. Mr. Jacobsen spoke to RP Eddy saying "Oh, my gosh! Can you believe what's going on here", to which RP Eddy replied, "Doesn't this look great?". Mr. Jacobsen called it a "catastrophic violation" and that they were trespassing and cutting trees. RP Eddy insisted on showing Mr. Jacobsen that no trees were removed on INCT land. Mr. Jacobsen estimated an area of about 3 football field lengths, 1,200 ft long of cutting. He decided to have the area staked to identify which trees were on INCT land. Mr. Jacobsen stated that this was a massive undertaking that look days, if not a week or more, to clear all of these trees. He believed it was done purposefully. Piles of trees were hidden behind stone walls and trees were limbed to open up views. Mr. Jacobsen commented that it looks like the views are opened up from the Lamont house and the Vik house in a coordinated effort to open views down to the lake. INCT land was trespassed on. Ashton Association land may or may not have been trespassed on. There was no notification sent to the Association

Members. He emphasized that both Vik and Lamont had cutting in the wetlands. Whether willing or not, they gave permission to do unpermitted work in the upland wetlands and directly in a gulch that seeps into Indian Spring Lake.

Side-by-side before and after photos were submitted to the record. Mr. Jacobsen walked the Agency through the photos. He commented that about 30 to 40 trees of substantial diameter were cut in the slightly elevated area, and the rest is decimated. He pointed out the sediment that was washed onto all of the leaves. He added that the pond on INCT property was dredged in 2019 and 2020, and now there is massive amounts of erosion and sediment coming down the hill due to the removed brush and understory for about 1,200 feet uphill of this river. The pond is being filled up with sediment that had been removed a couple of years ago. About a year ago, when the pond was purchased by INCT, Mr. Jacobsen commented that he could not see the Vik or Lamont house at all. Now, he can look right up at the Lamont house through the woods and the Vik house, which previously cut their hillside down to the pond. He added that there is a vernal pool to the right, at the base of the hillside by the Vik residence. He commented that there are ton of tadpoles and peepers. Mr. Jacobsen added that the brush and vegetation that used to filter and control erosion leading to the lake is gone, leaving the area very muddy. He referenced 89 trees removed on INCT land over 4 inches in diameter, along with thousands of shrubs and brush, which was to dense to walk through.

Brian Harris asked if re-dredging of the pond will be part of the remediation efforts. Mr. Jacobsen commented that they should take immediate action on silt and erosion control, if possible. When the dredging was complete, they took depth measurements. If there have been adverse effects, he believed the perpetrator should be made to correct the damage they caused. Mr. Jacobsen added that the limbing of beech and evergreen trees on the side of the stream was coordinated to gain a larger view from the Lamont patio to the lake.

Jay Fain, from Jay Fain & Associates LLC, listed his qualifications and experience in the ecology field. He has worked with the Rockefeller family properties for over 30 years, so he is very familiar with these properties. He marked the wetlands on this property, and the original soil report has been provided. He was involved with environmental analysis and testimony regarding vernal pools on these properties. Mr. Fain also produced a tree inventory and documentation for the activity of the Aquarian Water Company waterline location. Those were provided for the record. He was also involved in environmental monitoring and consulting for the dam replacement, which occurred in conjunction with the waterline replacement through the Association open space. He was the principal environmental investigator for the Indian Spring Pond dredging, in which the Association was one of the applicants. Mr. Fain had met with the president of the Association and spoke about the significance of the wetlands and need for protection. A conservation easement spans four of these parcels, including the Association open space, Lamont parcels, Vik parcels, and Eddy parcel. The conservation easement was to serve these natural areas as they were and to prevent these types of activities. This is well known to the Association and the members. Mr. Fain and his team were hired to initially to prepare the restoration plan for the 148 Glenville Road parcel, and also to help look at the violations and give recommendations. Victoria Landau is a professional landscape architect with over 40 years' experience, who is also involved. They first looked at the Glenville road property, a disturbance area that encompasses about an acre. The owners are very upset, given that

they purchased these parcels to reserve them and protect their privacy. They spent significant sums of money to purchase this property.

The area that was cleared consists of a narrow corridor, about 3 football fields long. It is a riparian area, which has a generally rocky and steeply sloping upland area. It is a mature forested area. Trees are primarily sugar maples and beeches. There was some understory, which is hard to see now. There were some invasives, probably privet. The client was adamant that a plan be prepared that could address not just ecological damage, but to restore it as closely as possible to the pre-existing condition. The team provided a detailed inventory of the trees and located each tree down to 2-inch dbh. They examined each tree, put a metal tag on it, and took a picture of it. They identified it to species just by looking at the stumps. They know what exactly what was there. There were 89 trees, above 3 inches that were removed. The total trees removed was 541 inches dbh, with 6.7 inches average dbh. They prepared a restoration plan, using their knowledge of the trees in the area to replace those trees. They used a variety of different sizes, ranging 7 to 8 inches caliber down to 5 and 6 calipers. The client was very adamant that they try to restore this as closely as possible to the original condition. Staff raised concern about locating large trees and potential damage to the wetlands during installation. Mr. Fain commented that they are not going to do anything that would damage the wetlands or the upland areas on the site. They will be very judicious in whatever they do. Sam Bridge prepared a letter regarding how this work would be done so there would not be damage to the wetlands, and that was submitted for the file. Sam Bridge is a reliable nursery. The client would not like to be limited to 2-inch caliper trees, given the size of trees removed. Mr. Fain assured that they would not do anything that would do any damage to this ecosystem, and they would be more than happy to work with Staff. They can stake out the trees before they are moved in. If there's anything that they feel would be a sensitive area, they would remove a tree and put a smaller tree in that location. The applicants want to use the largest trees possible for the overstory. They also prepared a very comprehensive understory plan planting plan using native trees that they feel would thrive in these areas, and also account for the deer in this area. Most of these plants are deer resistant. They would have to do maintenance and protect the trees going forward. The client is very dedicated to this. Mr. Fain estimated at least a 4-year maintenance program to monitor the trees and water the trees to ensure survival. They propose a minimum of 6-gallon shrubs to create an appropriate density for the area with 105 shrubs per acre. A report was prepared documenting the existing situation from the past pond restoration hearing. In application #2020-142, they found a metapopulation of wood frogs. They believe there is another vernal pool in the area. Mr. Fain has seen suitable pools for breeding, which has been eliminated by this work. This parcel is highly sensitive. 148 Glenville Road does not have a conservation easement.

Mr. Jacobsen was able to share a video of drone footage over the area of work, including Ashton Association land, INCT land, and views to the Vik and Lamont residences. He pointed out large stumps and vegetation cut to the ground. Mr. Jacobsen points out the Vik and Lamont houses and the cleared hillside adjacent to the vernal pool on the Vik property.

Mr. Harris asked if there is a vernal pool at the base of the hill leading from the Vik property. Mr. Fain stated that it is a wetland, but he cannot say if it is a vernal pool without studying it more biological detail. The aim tonight was to document the devastation of the property and to present a robust restoration plan. They can study the pool to determine if it is vernal. Mr. Fain stated that the plantings proposed on the other parcels do not adequately address the clearing, but that public

hearing is not open yet for comment. When he did the inventory for 148 Glenville Road, Mr. Fain identified a third to 40% of the trees being below 6" dbh in size. They documented that inventory and provided it to the Agency. The other applicants did not show any trees under 6 inches.

Bill Baker asked if there is any simultaneous legal action being pursued. Mr. Tesei stated that there are economic consequences from this intrusion. There are state laws that are applicable about trespassing and cutting trees on other properties. They can look into that. They are hopeful that the parties responsible will step up for the cost, which is a high six figure number. They have not threatened litigation yet. They have made it clear to Tom Heagney, representing the applicant, that the owners of 148 Glenville expect full restitution at the very least.

Mr. Harris asked to clarify if this hearing will be held open to hear the other remediation efforts and have a discussion as a whole. Ms. Evans commented that the Agency does not need to hold the hearing open for the other applications. This application stands on its own. Ms. Evans stated that, although it is a robust and carefully thought out plan, her concern in planting big trees is that they typically take longer to acclimate to the new setting and to begin to grow. These big trees put a lot of energy into their root systems. They would need to be watered and monitored. The proposed planting sizes are not what Staff recommends. Ms. Evans stated that, if those sizes are what the applicant wants, Staff will not stand in their way.

Mr. Harris reviewed a document from the Cornell Cooperative Extension of Oneida County, which states that sugar maples add in diameter about 0.2 inches annually and one foot in height. Mr. Harris commented that a difference in one inch of caliper is essentially 5 years of growth. Ms. Evans stated that, as they get older, they grow in diameter much more slowly. There is a fair amount of stress on that tree when it is transplanted. Most of its energy will go into establishing its roots for the first few years. A general rule of thumb is that for every inch of diameter at breast height, it takes about a year for that tree to adjust to its new location and start to grow. Many botanists recommend putting in smaller trees in terms of caliper, but tall enough trees to deter deer from eating them.

Mr. Fain stated that his client is adamant about larger trees, but they are cooperative and could consider incorporating smaller trees. It is good to have a diversity of species and sizes. Given that there are rocky areas, they may need to shift locations in the field and work with Staff during implementation. Ms. Evans endorsed that intent, but commented that spending a lot of money on big trees might not be the most effective restoration. Mr. Harris commented that the bond would be commiserate with having to replace larger trees in the future.

Mr. Fain recommended a 4-year plant hold and a 10-year monitoring period. Mr. Tesei raised a question about the 50% bond amount. Ms. Evans commented that Staff recommended reducing the caliper of plants. Mr. Tesei stated that his client will be paying for the trees and they may or may not lose a few trees. Mr. Tesei suggested that the bond be reduced, so that the money can be used for better purposes to replace the trees, potentially between \$50,000 and \$100,000. Jay Fain commented that he has never heard of a bond over \$25,000. Elliot Benton suggested that, if the applicants are negotiating with the trespassers, the bond should be put on them. Mr. Tesei replied that it will take some time. First, they would like to get approval to start the restoration. In reference to special condition #1, Mr. Tesei stated that they would like to go with the plan presented, subject to field changes approved by Staff. They have no issues with the deadlines listed, but Mr. Fain

commented that they may want to plant some in the spring and some in the fall for better success. Ms. Evans agreed that some plants are better planted in the fall. She would like a list submitted from the applicants of which plants they are proposing to install in each season.

Jenn Urena commented that the Agency needs to vote on the fee reduction request for the application, as this was a trespassing situation. Mr. Tesei submitted a letter to the Agency requesting that the penal portion of the fee be eliminated. He requested a \$32,000 reduction of the \$36,560 fee for a new fee total of \$4,560. This is due to the fact that no trees were removed by the applicant.

Open for public comment.

Tom Heagney, Heagney Lennon & Slane LLP, appeared on behalf of the applicants for the next applications. Jim McManus will speak on his analysis of the application. In his team's opinion, the recommendation of Staff is more appropriate than what the applicant is suggesting, in terms of tree size. Mr. McManus evaluated the overall areas of disturbance and areas closest to the pond. He has also looked at the potential vernal pool. As the potential vernal pool is not on 148 Glenville Road, Mr. Tesei recommended that the discussion remain on 148 Glenville Road only. Mr. Jacobsen did speak about all of the parcels in his testimony, but will be reviewing it again during the other hearings. Mr. Harris agreed that comments should be limited to 148 Glenville Road only.

Jim McManus, certified soil scientist from JMM Wetland Consulting Services LLC, reviewed his expertise in working for over 35 years in this field and 20 years in Greenwich. Mr. McManus studied all of the parcels involved, being 148 Glenville Road, 0, 4, 6, 8, and 10 Ashton Drive. He has also reviewed the photographs and video presented. He agreed that it represents what the site looks like, but it was unfair to show the property's before photos in full bloom in the summer and the after photos in late winter. In one photo, there is a very dense shrub community of Japanese barberry with an understory of well-established skunk cabbage. Those cabbages are still there along with the Tussock sedges and cat tails that will grow back in the near future. Where the watercourse flows down from the hillside through 4, 6, 8, and 10 Ashton Drive, it meets the flatter shrub scrub or wet meadow area, which did not have a lot of shrubs associated with it. It was an herbaceous area. A lot of trees are outside of the watercourse and there is still a lot of canopy, in Mr. McManus' opinion. Mr. McManus noted a fairly fresh accumulation of sediment without any vegetation growing on it. He agreed that this was new. All of the other areas that has sediment accumulation had growth on it, which was not new. Mr. McManus stated that the "vernal pool" was much too shallow to be considered a vernal pool and support breeding. This can be double checked. This area was not part of the vegetated management that was undertaken. That area was left alone.

Mr. McManus agreed with Town Staff that some of the trees were very large in diameter. He believes it to be more appropriate and easier to plant 2-3-inch caliper trees. The site is very stony with C and E slopes. The larger the tree, the more opportunity that the tree won't make it. The goal is to reestablish the removed vegetation and have success for all parties involved. Mr. Harris stated that the Agency is not looking at who will be paying the bill. The Agency will not prevent them from planting larger trees, but they can work out with Staff what is most appropriate. Mr. Fain commented that, when they put these types of trees in with a monitoring program, success is pretty much guaranteed. They will not plant these large, expensive trees just to let them die.

Peter Thoren, Executive Vice President of the INCT property, expressed his shock at what happened with this illegal invasion. He commented that many more acres would have been cleared if Mr. Jacobsen had not intervened. He stated that this was a conscious decision by the perpetrators to seek forgiveness rather than permission. They were working over several days. These actions were a conscious violation of the subdivision's declaration of restriction of deed restricted open space and conservation easements. Mr. Thoren stated that it is no coincidence that the cutting opened up a wide view of the lake for the person aesthetic benefit and enjoyment of two dwellings, Governor Lamont and the Vik residence. They were surprised that Ashton Drive Association president, RP Eddy, has consistently aligned himself with the perpetrators despite Mr. Thoren's repeated requests for input into their proposed plans. They were ignored. He stated that the Association should be protecting these lands and not agreeing with those who ignore the law on the Town's Wetlands regulations for their own benefit. This is also a Conservation Commission issue, and all should weigh in before the Agency makes a final decision. Mr. Thoren stated that they would like the Director to speak with the chairman of the Conservation Commission, Bill Rutherford, to convene a meeting. They would like Mr. Rutherford's input into finalizing the most beneficial plans. They are not asking for revenge for the invasion, but they do desire that things be rectified to the ultimate extent possible. To do anything less rewards the perpetrators for the illegal actions that they have taken. INCT is line with Mr. Tesei and Mr. Fain's plan.

Brian Harris made a motion to close the hearing. Seconded by Robert Rimmer, and carried, 6-0-0.

Mr. Benton would like a definition of what the Agency is considering. Mr. Benton mentioned the fee amount, the bond amount, and general approval of the application. Mr. Benton moved to waive the \$32,000 additional filing fee. Not knowing what the estimate would be, he cannot determine the bond amount. He is okay with the application and permit.

Mr. Harris recalled that Mr. Tesei gave a range up to \$100,000. It is unclear what percentage of the planting estimate that would be. Mr. Harris recommended 25% of the planting estimate, not to exceed \$100,000. Staff believed that \$100,000 is a lot to hold for this application. They would like to incentivize the replacement of trees rather than giving up a cash bond. Ms. Evans suggested a \$25,000 bond would be more adequate to ensure all trees are in good health. The applicant has also offered a longer monitoring period than recommended.

Brian Harris modified the motion to specify a \$25,000 bond, to increase the monitoring period to 10 years, and to release the bond after 4 years.

Mr. Benton suggested leaving it at 50% bond with a limit of \$25,000. Mr. Harris agreed.

Modified motion seconded by Jay Schondorf, and carried, 6-0-0.

The Agency called for a break at 10:07 p.m.

Agency Meeting resumed at 10:13 p.m.

Ms. Evans asked for clarification on special condition #1 for the revised plan. Did the Agency decide not to ask for that? Mr. Harris said it was left to be worked out with Staff, any specific location issues.

3. #2024-020 – [0 Ashton Drive](#) – S.E. Minor & Co. – 36 trees - Restoration of trees and shrubs removed without authorization. Tax #10-9012. (First 65 days 5-1-24)

Beth Evans introduced 0 Ashton Drive, another property where the violation occurred. This is Ashton Drive Association Inc property. S.E. Minor is the applicant and has prepared the plan and presentation.

Tom Heagney, attorney from Heagney Lennon & Slane LLP, stated that they have reviewed the staff report and its recommended changes to the application, and have no objection to those. They ask that those be included as part of the Agency's approval for this and the following applications. This this was a project that had little direction and no supervision. Mr. Heagney's client is very sorry that this has gone as far as it has, not only here, but also on the property of their neighbor. They are looking to do the right thing and provide restoration based on input from Staff, Mr. McManus, and S.E. Minor. S.E. Minor has prepared an extensive topographic plan which documented the extent of removal and limbing of trees on this and the other two properties. The applicants brought Jim McManus in to flag the Wetland boundaries and to provide an environmental assessment. Mr. McManus' report, dated February 17th of this year, was filed as part of that application. Surveying crews located the stumps of those trees and had a separate plan prepared that showed where those were located on this property and on the other two properties. Based on that survey, a restoration plan was prepared in accordance with both the list of appropriate plants provided by the Agency and what is growing in the area, so that there is an appropriate mix of plant material as replacements. They selected wetland tolerant plants and native species. A formula was used of one tree replacement for every 6 inches of dbh that were removed, and 3 to 5 shrubs for any trees that had been limbed. Mr. Heagney pointed out that no stumps or roots were removed, so there was no soil disturbance associated with the work that was done. The increase in shrub size and addition of understory trees is certainly something that the team will amend the plan to include, in addition to permanent demarcation features, the wetland boundary, and the conservation easement areas. They propose to retain a qualified environmental consultant to provide weekly reports during the installation, as well as, annual reports thereafter.

Jim McManus, certified soil scientist from JMM Wetland Consulting Services LLC, stated that he visited the site on two different occasions, January 4th and February 5th of this year to do a wetland delineation within the area of vegetation management. This area spans from Ashton Drive all the way into 0 Ashton Drive, including 4, 6, 8, 10, and 0 Ashton Drive, which is the area around the lake. Mr. McManus acknowledged that a mistake was made, and the applicants are here to rectify the mistake. Mr. McManus came to the conclusion that there were no significant adverse impacts to the wetland and resources. His analysis included site visits and aerial photo interpretation, where he went looked back to 1934 and moved forward to essentially the present. Mr. McManus noted that the lower area in particular, around where the lake has been routinely managed, its vegetation has been managed as well. There was a fence installed. Mr. McManus assured the Agency that the fence was not installed in a thicket of shrubs. It was installed when it was open, so they could put that fence in there. It is not the first time that this has happened.

Looking at the landscape upstream, it is a sloping landscape with a very small wetland fringe. There is not a flood plain associated with this downcutting stream. There have been significant rainstorms lately. There is newer sediment that has been deposited there, but Mr. McManus does not believe it to be from the work activities. The significant rainstorms and downcutting watercourse take sediment and drag it down from its watershed all the way through and deposits it in this lower spot. It contains fairly deep, steep E and C slopes through the watercourse area of at least 15% grade. There was one area of newer sediment that had no vegetation growing on it, likely deposited from a recent storm or a number of storms this winter. The rest of the sediment that was noted within the area of management had all kinds of herbaceous vegetation that is dormant right now, but is still there. Those include sedges, rushes, skunk cabbage, and various other things that have been there for a while.

In terms of thermal impacts, there has been some limbing and some understory cut, but the canopy has not been removed. There is only a short stretch where the watercourse enters the shallow marsh area that is open to sunlight. In Mr. McManus' opinion, it was never fully closed, because the watercourse did not go through the shrubs. It went through the wet meadow, with shrubs around the outside of the wetland area. Speaking of thermal impacts, the entire pond has no tree canopy at all. Mr. McManus did not see any significant erosion due to the activity, in terms of skidders. They also did not pull any stumps. The majority of the vegetation in the southernmost part was dominated by invasive species, such as rose bush, Japanese barberry, privet, and invasive honeysuckle. In his opinion, it did not rise to the level of a significant adverse impact as outlined in the State of Connecticut laws that the Town of Greenwich follows. What happened was a mistake. Coupled with the proposed mitigation plantings, they see that as sufficient to rectify any short term or long-term impacts to the regulated resources.

Brian Harris asked why Eastern Hemlock, which is susceptible to Woolly Adelgid, was proposed in the planting plan. Ms. Evans responded that Mr. Harris' concern is valid. However, Hemlocks are suited for wooded environments near streams and tolerant of shaded areas. In her opinion, it is an appropriate species. Mr. Harris stated that he has seen whole riverbeds wiped out of Hemlock in the last several years, so he was wary of that.

Elliot Benton asked how many trees were removed in the Upland Review Area on 0 Ashton Drive. Ms. Evans responded that 41 trees were removed. Gigi Ma, CEO of S.E. Minor & Co, added that 32 trees were limbed. Mr. Benton asked Mr. McManus if the removal of 41 trees from the wetland buffer has no effect on the wetland. Mr. McManus clarified that, by the statute standard, he believes it did not have a significant, adverse, direct impact to the regulated resources. He did not say that there was no impact, but that it does not hit the statutory impact. Mr. Benton commented that the buffer is a regulated area by law. Mr. McManus restated that there is no significant impact. These situations have to be evaluated on a case by case basis. He stated that the area may look denuded, but that does not mean that it was. Mr. McManus assured that the area will look completely different in June. Ms. Evans stated that, as a professional wetlands scientist, the removal of vegetation has had a significant adverse impact on the resource, but they can agree to disagree.

Mr. Heagney stated that they have submitted a substantial planting plan for this portion of the property, including 68 trees and 28 shrubs, which would be increased in both quantity and size by Staff's recommendation. They are prepared to provide restoration.

Jay Fain, from Jay Fain & Associates LLC, stated that Hemlocks are susceptible for woolly adelgid. Relying heavily on Eastern Hemlocks in this instance, he believes is not good husbandry. He also corrected that conifers should not be specified by caliper on the plan, but by height.

Rachael Orsi, from S.E. Minor & Co., worked closely with Jim McManus as well as reviewed with the Wetlands Staff to make sure that the mitigation plan meets regulations and sufficiently restores what was lost. They came up with the plan that for every 6 inches of caliper tree that was lost, one tree would be proposed as a replacement. There were also replacements proposed for the trees that were limbed. These were 3 to 5 shrubs, which were counted as planting stations, being proposed to help restore the understory of the area. All of these were chosen from a list of plantings that were provided by the Wetlands Agency which are native and wetland tolerant. That plan had gone through multiple revisions. They are willing to work closely with Mr. McManus and Wetland Staff to make sure they efficiently mitigate what was removed.

Robert Rimmer asked to clarify the replacement ratio. Ms. Evans stated that they are replacing one tree for each 6 inches of dbh lost, which is more than a 1 to 1 replacement ratio. Mr. Rimmer asked if there are certain areas not included in the replacement. Ms. Orsi stated that their team discussed with Staff. They agreed that it would be beneficial to relocate some of the proposed plantings to better reestablish areas where trees were limbed. They are proposing smaller trees and relocating some of the proposed shrubs into those locations to help prevent wind from tipping up trees in that area.

John Tesei, from Gilbride Tusa Last & Spellane LLC representing INCT at 148 Glenville Road, stated that his team submitted intervention documents to the Agency. Mr. Tesei stated that this was a devastation of 5 acres having to do with the subject applications, and 6 acres total.

Mr. Heagney suggested that this testimony be incorporated into the record for the following two applications for 4&6 and 8&10 Ashton Drive. Mr. Harris agreed to that. Mr. Tesei agreed, as well.

Mr. Tesei commented that the applicants termed this activity as a mistake. He stated that it was not a mistake, but intentional cutting. Mr. Tesei asked if the Agency could incorporate the entire record stated of the 148 Glenville Road application into the record of this hearing to avoid duplicity. Ms. Orsi objected, saying that Mr. Tesei had requested his application to be completely separate from these three applications. Mr. Tesei is okay with incorporating the comments of the video, side-by-side photos, and testimonies into this record. Mr. Heagney stated that if those are incorporated into this record, then Mr. McManus' comments can be added to the hearing on 148 Glenville Road. Mr. Tesei stated that the 148 Glenville hearing is now closed. Mr. Heagney commented that it is not possible to incorporate records from a hearing that is already closed, but it is possible to incorporate record on the three still pending. Mr. Tesei needs to make his comments on the applications that are pending.

Mr. Tesei commented that there seems to be very little contrition in this application. There is 5 acres of land, over 200,000 square feet, that has been disturbed in varying degrees of removal. His team believes that the number of removals is significantly more than what was shown, especially in the understory. Some may come back, but certainly not all. There has been a direct effect and substantial adverse effect. The cutting occurred on the subject properties on a November day, when the client's land manager found the violation. Mr. Tesei commented that he had worked on the

original Ashton Drive subdivision and obtaining approval from the IWWA and P&Z. Mr. Tesesi stated that he drafted the two declarations mentioned in the previous application. He remains as the agent for service of process for the Association. Mr. Tesesi's team believes that the Agency should support a robust restoration with plans that address the total devastation by the three applicants. This should be a rapid reforestation plan with the largest trees reasonably possible. The applicants should work with Staff to come up with a robust plan to bring the property back as soon as possible. There should be a recognition by those who perpetrated this, which is still unclear. The police report cited My Gardening Angels as doing the work. They also cited Governor Lamont in the police report. This work violated the declaration of restrictions covering the Ashton Drive Association open space and violated the conservation easements overlying the Vik and Lamont properties. Mr. Tesesi suggested that the Director Evans consult the chairman of the Conservation Commission on this matter. The proposed plan practically rewards the properties owned by Vik and Lamont because they will have their lake views for many years. This is about doing what is right. This work was an intrusion, was intentional, and coordinated. In the previous application, Mr. Jacobsen stated that a pathway was constructed to engage in this work that they are calling a mistake.

Fred Jacobsen, the property director of the INCT property, stated that he understood that tree replacements in a conservation easement are supposed to be 5 to 1 in that area. Their proposal to replace 2-inch trees for every 6 inches of caliper is under the requirements for reparations. Mr. Jacobsen asked why they are not replacing caliper per caliper. He believes their entire plan should be restarted from scratch. The plan proposed should be robust and not sweep this violation under the rug. The owners of these parcels have gained a couple million dollars in value from the house view. No expense should be spared. Using the proper matting and machinery, Mr. Jacobsen suggests that they can install \$20,000 or \$50,000 dollar trees. As members of the Association, he believes INCT should have a say in the plan put forward. The Association has ignored their requests and excluded them from any details. The Association never sent out notifications of work to any of the members. On November 10th, 2023, Mr. Jacobsen responded to the sound of chainsaws and came across a massive cutting effort. It appeared to have been going on for days. There were more than ten workers engaged in cutting and clearing. There was plywood laid down to provide access for trucks and a chipper to the cutting area. Access was provided on the hillside from the Vik property. When Mr. Jacobsen came upon the group, they started running from the area and grouping up to leave the premises. He immediately called the Wetlands Department, which had shortened hours due to Veterans Day, but was directed to call the police to stop the cutting. While waiting for the police, RP Eddy, President of Ashton Drive Association, came to the scene and engaged in conversation. Mr. Eddy's reaction was, "doesn't this look great". Mr. Jacobsen replied "no, this was a catastrophic violation and they had trespassed and cut trees". This may or may not have been trespassing, depending on who permitted the work. Mr. Jacobsen wanted to have the trees surveyed before any claims were made. All of this work was done in a conservation easement area and in a wetland without any permits or permission. The work goes beyond the destruction of wetlands. He stated that this was a coordinated destruction of the entire ecosystem. The perpetrator should restore the entire area as closely as possible to the way it was, sparing no expense to facilitate full restoration. They should do whatever is asked of them and not try to negotiate anything less than full restoration. They have displayed a lack of judgement and no appreciation for the wetlands. The Agency should take complete control to enforce the maximum penalties and complete restoration. Mr. Jacobsen stated that those responsible knew they would

never be allowed to do this with a permit, so they did it anyway. The restoration should include canopy, understory bushes, wetland plants, and remediation from all of the silt that is coming down the slope due to the removal of these plants. This plan should not take decades to look the way it did before.

Mr. Jacobsen was able to share a video of drone footage over the area of work, including Ashton Association land, INCT land, and views to the Vik and Lamont residences. He pointed out large stumps, fresh silt deposits, and vegetation cut to the ground. Mr. Jacobsen points out the Vik and Lamont houses and the cleared hillside adjacent to the vernal pool on the Vik property. He mentioned the cut understory and canopy loss.

Gigi Ma, CEO of S.E. Minor & Co., asked why Mr. Jacobsen is showing photos from different seasons. Mr. Jacobsen responded that they did not alert them that the trees were being cleared. He added that they cannot go back in time. Mr. Harris added that the work occurred in November. Ms. Ma stated that it was an unfair comparison. Mr. Jacobsen stated that these were pictures they happened to have in the file from 2023 after they noticed the cutting on the Vik's hill.

Mr. Tesei stated that the declaration of restrictions and conservation easement are part of the record.

In light of the time, Mr. Fain stated that he had a lengthy presentation. He will encapsulate the comments in a written report. Mr. Harris would like to pull this application and the next two application hearings to another night as a special meeting. This is unfair to the rest of the Agenda. Ms. Evans agreed. It would be helpful for Mr. Fain and Mr. Jacobsen to write up their comments and to continue at a special meeting.

The hearing is held open.

A continuation of this public hearing, as well as IWWA#2024-021 and IWWA#2024-022, will be moved to a special meeting. Ms. Evans will set a follow up date as soon as possible that works for everyone.

4. #2024-021 – [4 & 6 Ashton Drive](#) – S.E. Minor & Co., Inc. – 32 trees – Restoration of trees and shrubs removed without authorization. Tax #10-352/s & 10-3503/s. (First 65 days 5-1-24)

To be heard at a special meeting. Date to be determined.

5. #2024-022 – [8 & 10 Ashton Drive](#) – S.E. Minor & Co., Inc. - 13 trees – Restoration of trees and shrubs removed without authorization. Tax #10-3504/s & 10-1319/s. (First 65 days 5-1-24)

To be heard at a special meeting. Date to be determined.

Consent Approval

1. #2024-024 – [62 Khakum Wood Road](#) – S.E. Minor & Co., Inc. for Thomas Foley – Construct a wine cellar and removal of 14 trees with closest activity about 9’ from wetland. Tax #10-1414. (First 65 days 5-1-24)

No Agency questions. Brian Harris made a motion to approve. Seconded by Robert Rimmer, and carried, 6-0-0.

Pending Applications

1. #2023-106 – [20 Edgar Road Lot 1](#) – S.E. Minor & Co., Inc. for IREP-CG 20 Edgar LLC – New residence, pool, patio, driveway and garage approximately 47’ from wetlands. Tax #10-3337. (Second 65 days 3-29-24)

Application withdrawn.

2. #2023-115 – [9 Fairgreen Lane](#) – Jay Fain & Associates for Fairgreen LLC – Demolish and reconstruct a new residence. Tax #06-1742/s. (Second 65 days 4-26-24)

Sarah Coccaro stated that this application was heard at the February meeting. The Agency must make a decision at the April 15th meeting, which was previously listed incorrectly. The applicant, engineers, and homeowner have meet with Agency staff to discuss the outstanding concerns. Agency Members Harris, Benton, Baker, Schondorf, and Rimmer visited the site on March 12th and 13th. Mr. Muller has provided an updated Site Development Plan that includes a cross section of the pool, rear patio design, storage system, and the driveway storage. Construction sequencing has been provided. The wetland plantings and rain garden installation are scheduled to happen early in the construction, to allow the plantings to establish early on. Soil and erosion controls are proposed within 5 feet of the development to the rear. No construction activities, other than the rain garden installation, are to happen past the construction envelope. The planting plan has been expanded to double the width and density of the proposed plantings. The plant selection has been modified to reflect the saturation conditions in this location, both in terms of duration and salinity. A low maintenance “tall” fescue turf grass mix is proposed in the rear yard. Maintenance of this area should be called out on the plans, as it will not be typical “lawn” and will not need to be fertilized or mowed regularly. The applicant has provided a chart outlining the property coverage on the two neighboring properties and the subject parcel. The pool and residence have been pulled 3 feet closer to the road giving a 41-foot and 45-foot setback, respectively, to the off-site wetlands. Other than shortening the driveway by 3 feet, no other driveway modifications have been proposed that would reduce this space. This seems to be an attempt to satisfy section 7.10.e of the regulations. The alternative of shifting the entire development closer to the road to meet the 25-foot setback was not provided. 50 yards of fill have been eliminated overall from the site development. No fill will be added to the rear yard within the flood zone. The level spreader and rain garden requests have been addressed. The level spreader is shifted to the east adjacent to the rear retaining wall, approximately 40 feet from the off-site wetlands. The Wetland Enhancement Plan now includes a

rain garden with salt and flood-tolerant plantings. The LiMWA (Limit of Moderate Wave Action) line has been provided on the most recent construction plans. The applicant should explain to the Agency if the proposed improvements will be modified since the pool and rear patio partially fall within the LiMWA. The National Flood Insurance Plan (NFIP) VE-zone design and construction standards apply to structures placed in the LiMWA zone in accordance with Connecticut's State Building Code. Portions of the pool and patio are proposed in the LiMWA. These structures should be designed and constructed to be structurally independent from the dwelling creating the fewest obstructions to flow as possible. Otherwise, their connection to the dwelling would, for NFIP insurance purposes, consider the dwelling to also be located in the LiMWA. In spite of the fact that DPW Engineering has reviewed and approved the drainage plan, Staff has considerable concern with the design put forth. As previously noted in staff reports, the site is directly adjacent to inland wetland and tidal wetland systems. The runoff from this subject parcel flows towards the offsite inland wetland (on 6 Greenwich Cove Drive) and Long Island Sound. The proposed improvements will more than double the amount of impervious surface, doubling the amount of runoff needed to be contained and treated. Discharge from the level spreader may stop and water may back up in the system during flooding, high tide events, or during the non-growing season when groundwater is at or near the surface in the rear yard. Coupled with the fact that this property is within an AE 13 flood zone and LiMWA, this property, and neighboring properties, will be subject to the same frequent coastal flooding. The legitimate opportunity for flooding during construction was not acknowledged or mentioned. It is for this reason that staff finds that the present plan could exacerbate flooding conditions on this and adjacent properties.

John Tesei stated that his team find the conditions of approval satisfactory. They understand that, if there are changes made during the Planning & Zoning process, those changes would be reviewed by Staff and may have to go back to the Agency. No objections.

Bryan Muller, from Muller Engineering LLC, stated that his team has taken all of meetings and discussions with Staff and their clients into consideration. They have pulled the house forward 3.5 feet, which is 45 feet off the back property line. The wetland line is transcribed on the site plan based on the records at Town Hall. There is a rubble wall there, as well. They have removed all of the land grading and any type of work beyond the silt fence and construction fencing line. The proposed rain garden is a further water quality treatment for times when the area becomes flooded. That area will provide more storage during a rain event, but not necessarily during a high tide. Mr. Muller stated that the Federal regulations, State regulations, and Town regulations are clear that the ocean does not rise if you put a building in it. He stated that there are no significant flood impacts at all. They will be improving flood impacts from stormwater runoff with the rain garden. The existing void ratio in the soils in the back with typical top soil or a silty loam is about 5 to 10%. This rain garden will have bioretention soil in it. Mr. Muller provided a cross section through the porous patio, in addition to a cross section through the driveway. The porous patio will be constructed as follows. Underneath the porous pavers, there will be gravel, 24 inches of stone, and free draining fill material from off site. The soil will absorb water slowly infiltrate into the existing soils on the property. They do not account for infiltration into existing soils in their drainage models. The ponding provides an overflow, which reduces volumes and peak flows of water during rain events through the 100-year storm. They will not be adversely impacting any flooding conditions on this property or the neighbors' properties.

Jay Fain, from Jay Fain & Associates LLC, stated that they developed a very responsive plan. He does not believe any of the three Staff reports mentioned impacts to the freshwater wetlands area on the 6 Greenwich Cove property, which is a degraded wetland maintained as lawn with a trampoline and jungle gym on it. In his professional opinion, there will not be any impact to that wetland area. He refrained from making comments about tidal wetlands because he stated it was not in the jurisdiction of this Agency. His team worked with Staff on the alternatives. They addressed the comments, moved the house, and removed all of the grading in the backyard. They have submitted a very robust planting plan, including the rain garden. The level spreader was moved, as well. In his opinion, they did not have to provide an alternative.

Katerina Violi and Richard Baranello, owners of 9 Fairgreen Lane, intend to live in this home with their four children aged from 24 to 20. They feel they are following all rules and regulations. Being in an R-12 zone, they needed the setback to be able to have an appropriately sized driveway. Ms. Violi is an OBGYN, so sometimes she gets called out early in the morning. There is no on street parking at night. They are following the regulations and not asking for a variance. Ms. Violi expressed that the parking space is important for her and her husband both being physicians. They were reassured by two separate experts that this larger driveway would help with the drainage. They respect the environment and were happy to make all of the changes. The owners met with Beth and stated that they complied with her suggestions. They would like to start construction.

Gary Cunningham, owner of a neighboring property, stated that this application was self-serving and lacked understanding. This is a small community, which is very prone to flooding. There have been conflicting soils scientist reports, but there is a file showing massive amounts of flooding here. Mr. Cunningham stated that the house needs to be closer to the street and needs to reduce impervious area, or else the neighborhood will suffer. The neighbors suffered from the 6 Greenwich Cove Drive development. There is a constant pond under the trampoline on 6 Greenwich Cove Drive. This is an area that should not be developed to this extent. Mr. Cunningham urged the Agency to take a closer look before a decision is made. This development will ruin the flow of water there. Multiple neighbors have sent letters. Those neighbors have had to leave the meeting due to the time.

Lorie Cunningham added that their neighbors would say the same. A 14-foot pool should not be put near a wetland. This property floods daily. She does not see the reasoning for a larger driveway, home, and pool on such a small property. She asked where the water will go if they put up this large dwelling.

Ms. Coccaro reviewed the special conditions, which are final construction plans to be submitted with any changes made during the P&Z CAM process, updated planting plan with a note related to maintenance of the grass, estimate for retail cost of mitigation plants, cash performance bond of \$2,500 plus 30% of the estimate, declaration of regulated areas, stormwater packet for the homeowners, environmental consultant reports to be submitted during rain garden and planting installation, certified stormwater system, note filed on Land Records for stormwater inspections, As-Built, and no pool backwash into wetland.

Brian Harris made a motion to approve with the standard and special conditions listed. Seconded by Jay Schondorf, and carried with abstention from Bill Baker, 5-0-1.

New Applications for Review

1. #2024-009 – [16 Huckleberry Lane](#) – Charles Mills for Andrew Toth – Address clearing violation within and adjacent to wetlands; Request tree removal; construction of walkway and wall. Tax #10-2310. (First 65 days 5-1-24)

Jennifer Urena stated that this is a longstanding violation. Recently, Staff has been working with the authorized agent, Charlie Mills, on submitting an application. They used a replacement formula for every 6" of DBH lost for the unauthorized tree removal. The proposal includes a total of 25 native trees, with acceptable sizing. The locations, sizing, and types were worked out with Staff. Additionally, a boulder demarcation feature meeting an existing and new wall will help prevent future violations. Separate from the violation, an additional 11 trees are proposed to be removed as part of this application. An arborist report and biological narrative have been provided as supporting documentation. According to the arborist report, three of these trees pose a threat to the dwelling. Four others have health issues, with tree labelled #2 noted in fair condition but with basal and trunk decay. Four more trees are proposed for removal along the driveway (trees labelled #3, 4, 5 & 8) where a fescue meadow is planned, within the proposed demarcation boulders. Of the eleven trees, Mr. Urena recommended that the four along the driveway be discussed by the Agency. The canopy would not be replaced in this section between the boulders and wetland. If approved for additional tree removal, the proposal for 20 additional trees and 10 additional shrubs was worked out with Staff for the replacement and found to be acceptable. This is in addition to the 25 native trees for the violation. An invasive removal plan was submitted which includes hand removal, limiting the disturbance, as well as a fescue meadow list and several ferns proposed. The aggressive invasive found on site includes Asiatic bittersweet. A bi-annual report of the invasive removal plan is recommended to be submitted to Staff for the first three years. Staff finds the planting plan to be robust and carefully thought out. Staff finds no issues with the additional walkways and new walls proposed. The proposed 18" high masonry stone wall at the front is for safety concerns. No work will be done to the culvert. The proposed re-located stone wall at the side of the property aligns more with the property line and will tie into the demarcation boulders. The issuance of an Order to Correct was recommended.

Brian Harris asked if Staff finds the replacement plantings for the four trees along the driveway to be acceptable. Ms. Urena did find them to be acceptable, but would like to give the Agency the opportunity to require additional trees. The arborist report was not clear as to the reason for removal. Ms. Urena would like to enforce more planting stations in that area.

Charlie Mills, from Mills Engineering LLC, explained that all of the trees were removed within a manicured lawn area. The removals were prompted by cracks in the concrete slab of the garage. There were also trees causing damage to the septic. There was very little light on the house, so the siding was rotting. Those four trees near the driveway are going to crack the driveway. Mr. Mills stated that he is providing several trees in that area and increasing the buffer along the driveway. There was very little existing buffer before. They are increasing 7 feet of buffer. Some of the trees pose a threat to the home.

Robert Rimmer made a motion to approve with the standard and special conditions, as noted.

Mr. Harris asked if the four trees are included. Ms. Urena stated that the replacements were added with the 20 trees and 10 shrubs proposed to replace what was lost. Mr. Mills emphasized that they are looking to improve the character of the buffer, which will become meadow with a boulder demarcation along the edge. He does not object to the conditions. Mr. Mills requested an extension to May 15th to get an estimate for the plantings.

Brian Harris made a motion to approve with standard conditions, as stated, with the exception of the extension of the planting budget to be submitted by May 15th. Seconded by Jay Schondorf, and carried 6-0-0.

2. #2024-011 – [46 Carriglea Drive](#) – Rocco V. D’Andrea, Inc. for Deanna K. Stackpole – Demolish and reconstruct a residence, with pool, drainage, septic and associated activities adjacent to wetlands. Tax # 05-2770. (First 65 days 5-1-24)

Beth Evans stated that this is an application to demolish and reconstruct a residence with pool, drainage, and septic adjacent to wetlands. The home is primarily surrounded by tidal wetlands. However, there is a portion of a freshwater stream that flows under the existing driveway through a 30-inch culvert. The proposal is to place another 30-inch culvert next to the existing, to increase the flow beneath the driveway, in accordance with a recommendation that was part of a report commissioned by DPW in 2011. In Ms. Evans’ opinion, this application will not have any adverse impact. The property is also under review by Planning & Zoning for a CAM application.

Tony D’Andrea, from Rocco V D’Andrea Inc, stated that he read and agreed with all of the conditions. This site was designed around the preservation of five mature, large diameter oak trees. He requested approval.

Terri Browne Kutzen stated that she appreciates the objectives of saving the trees. She asked what was meant by the closest distance from wetlands and watercourses being 0 distance. Mr. D’Andrea responded that the watercourse cannot be avoided. The existing culvert is under the driveway. They can only access the site over the watercourse. Based on DPW recommendation, there will be an improvement made to that crossing. There will not be any change in elevation. The additional culvert will be able to pass more water during upland flooding conditions which affect the neighborhood.

Ms. Kutzen was concerned that the silt fencing is so close to the stream. If there were flooding, it could cause a problem. She asked if the silt fence can be moved back during construction and add some haybales. Mr. D’Andrea stated that silt fence is the least intrusive but most effective in this location. The fence follows the limit of existing paved area. The silt fence will be temporary along the edge of the phragmites. The fence also defines the limit of activity in the upland. As the final grading is landscaped and planted, the silt fence will be removed. The edge will be back to the same elevation. Ms. Kutzen clarified that she is referencing the area south of the driveway, where the silt fence is close to the culvert. Mr. D’Andrea agreed that the final shape of the silt fence can be adjusted, but they will need to line the edge of the channel in order to install the culvert. It will be installed on the westerly side of the existing one. They can work with Staff to adjust the silt fence location. It can follow the base of the existing contour. Ms. Kutzen was also concerned about the

increase in grade once the project is complete. She is concerned about erosion and sedimentation. Mr. D'Andrea has had coastal engineers look at the plan and produce an analysis for DEP. This will be discussed with Planning & Zoning. There will not be any wave action. An extensive landscape plan has been prepared to stabilize the slopes when the work is complete. The silt fence will stay in place until the landscaping is complete.

Ted Walworth asked if there is a plan to remove the phragmites. Mr. D'Andrea stated that the phragmites are growing at the edge of the tidal wetland, not in the watercourse. There is no plan to remove it. The phragmites is also likely helping to stabilize the banks from wave action during storms.

Brian Harris made a motion to approve with standard and special conditions, as stated. Seconded, by Bill Baker, and carried 6-0-0.

3. #2024-013 – [25 Cat Rock Road](#) – O'Donnell Law LLC for Eoin Ryan Revocable Trust and Leslie Cafferty Revocable Trust – Removal of trees. Tax #08A-1281. (First 65 days 5-1-24)

Beth Evans stated that the applicant is working with the Highway Division to correct a safety situation on the property. They will submit a restoration plan for next month. There is nothing to review.

Delayed.

4. #2024-014 – [0 Lake Avenue](#) – Tighe & Bond for Greenwich Land Trust – Aquarion Water Company – Install a solar-powered weir. (First 65 days 5-1-24)

Brian Harris asked if the Agency should hear this application together with 10 DeKraft Road, IWWA#2024-016. Ms. Evans agreed. The two applications were reviewed together.

Beth Evans stated that this is a water company proposal. This improvement is part of the water company's operation, and therefore, covered under section 4.2e of the regulations as water company projects on their land. 0 Lake Avenue is on Greenwich Land Trust land. They have been in contact with the IWWA office and have given their permission. 10 DeKraft Road is on water company land.

Matt Regan, from Tighe & Bond, stated that this work is also being required under Connecticut DEEP's new stream flow release regulations to balance the use of water storage with downstream ecosystems.

Brian Harris made a motion to approve as of right under section 4.2e of the regulations for IWWA#2024-014 and IWWA#2024-016. Seconded by Elliot Benton, and carried 6-0-0.

5. #2024-015 – [17 Hemlock Drive](#)– Rocco V. D’Andrea, Inc. for Hodge Rock LLC – Renovate dwelling, remove tennis court and garages, construct a sports court, regrade, install drainage and landscape with closest disturbance from wetlands at about 80’. Tax #07-1006/s. (First 65 days 5-1-24)

Sarah Coccaro stated that this application would have been an agent approval. Most of the proposed work is outside of the Upland Review Area on the other side of the residence and would not have any wetland impact. However, while reviewing the narrative and planting plan, there was a note that included removal of an invasive bamboo stand within and adjacent to the wetland. At the time, no details were provided about how this would be accomplished. Staff reached out to D’Andrea’s office. They presented two options to Staff, either to cut and spot treat the bamboo or to excavate. In speaking with other Staff members, Ms. Coccaro recommended that the bamboo be cut with spot application. The applicant has prepared a planting plan for inside the wetland and across the entire site. Inside the wetland area, 17 new native trees, 32 shrubs, and a native wetland seed mix is proposed. Staff recommended basic special conditions of approval.

Tony D’Andrea, from Rocco V D’Andrea Inc, stated that their intent is to cut and chemically treat the bamboo in accordance with the proper standards. There will be no digging, which would be more disruptive. Access to that area for machinery work would also be more disruptive. This application reduces coverage and maintains the same setbacks as currently exists. The focus is to remove and control the further advancement of bamboo.

Brian Harris made a motion to approve with the standard and special conditions. Seconded by Elliot Benton, and carried 6-0-0.

6. #2024-016 – [10 DeKraft Road](#) – Tighe & Bond for Aquarion Water Company – Installing 6” tap, flow meter, vault, headwall and swale. Tax #11-1143. (First 65 days 5-1-24)

(See IWWA#2024-014)

Brian Harris made a motion to approve as of right under section 4.2e of the regulations for IWWA#2024-014 and IWWA#2024-016. Seconded by Elliot Benton, and carried 6-0-0.

7. #2024-018 – [7 Dairy Road](#) – S.E. Minor & Co., Inc. for Meadowcroft LLC – Unauthorized clearing of trees in wetland and buffer. Tax #11-3023.

Jennifer Urena stated that Staff found this violation, which included the removal of 26 trees from the wetland and buffer, at the front of the property, with no prior authorization. A Stop Work Order was issued and subsequently Cease & Correct #2024-005 was upheld. This application is to restore the area of the unauthorized clearing and proposes residential improvements, including a new driveway location. An updated plan and narrative were received from Glengate on March 18th, 2024. The screening trees include American holly, eastern red cedar, and northern white cedar. The remediation trees include red maple, serviceberry, swamp white oak and pin oak. The plant

schedule includes 65 trees, 60 winterberry and native groundcover. The quantities, types and sizing of the proposed trees are sufficient, but the plant list should be updated to quantify the other shrubs that are shown on the plan, as well as the specific seed mix proposed for the wetland. It is also recommended that the lawn area between the proposed demarcation boulders and residence should be reconsidered, and perhaps planted with a pollinator-friendly meadow seed mix or five planting shrub stations, with 3-5 native shrubs each, as the unauthorized tree removal and ground disturbance took place in this location as well, and is entirely within the URA. For the new driveway proposed, the applicant has considered three alternatives, but they are proposing a new location on the northern portion of the property. They reduced the width of the drive in their recent submission since they will continue to use the existing shared driveway for larger truck deliveries and for fire truck accessibility. This plan includes the removal of 4 pine trees and 7 maple trees within the new drive and motor court. They plan to connect the existing two PVC pipes which currently discharge in the middle of the hillside to existing catch basins at the front of the property, and to repair an existing stone wall along the road which is in disrepair. The Agency also mentioned a Municipal fine should be collected at the last Agency meeting and so an additional \$1,000 filing fee is a recommended condition of approval. Issuance of an Order to Correct with special conditions was recommended.

Cheryl Russ, from Glengate Company, explained that the redesigned driveway results in a net decrease of 198 square feet of asphalt. They have updated the drawing to list the exact wetlands seed mixture, which still needs to be submitted. Given that the area of tree removal was filled with invasives, Ms. Russ asked if they can install a clover lawn alternative mix. White clover is not native to North America, but it is a host plant for caterpillar species and is beneficial for pollinators. It is also beneficial for drought tolerance and adds nitrogen to the soil. Brian Harris added that deer love it. Beth Evans stated that Staff wanted specification for what was in the clover grass mix, which they have not received.

Brian Harris made a motion to approve, with the added condition that the clover seed mix will need to be reviewed and approved by Staff before it can be used.

Avi Barkai, owner of 7 Dairy Road, is happy with the approval, but asked if the deadline of planting installation could be pushed to the fall. Ms. Evans responded that they will need to give Staff a list of what they would like to put off until the fall, so that it is documented.

Brian Harris modified his motion to include extending portions of the planting plan to be pushed off to the fall, provided the list is given to Staff by June 17th. Seconded by Elliot Benton, and carried 6-0-0.

8. [#2024-019 –212 Old Mill Road](#) – Peter Finkbeiner for 121 OMR LLC – Complete residential addition, new pool, pool house and driveway adjacent to wetlands. Tax #10-2289. (First 65 days 5-1-24)

Kristen Lodato stated that this application is in response to a violation issued to 212 Old Mill Road for continuing and exceeding regulated activity of IWWA#2006-164 after the permit's expiration and issuance of a Stop Work Order. In addition to completing the residential addition that was left unfinished when the permit expired, they are adding features such as a pool, pool house, garage

addition, and driveway modifications. A list of questions was sent to the applicant, including questions about alternatives for the septic and geothermal well locations, machinery access details. Comments from DPW to be addressed, and modifying the planting plan to satisfy past permit and order requirements. At this time, Staff feels there are too many unanswered questions to properly review. It would be beneficial to review this application once Staff and the Agency have more information.

Bill Kenny, from William Kenny Associates, agreed. They will take the next month to work with Staff and respond to the comments.

Brian Harris asked about the municipal fine recommended. Ms. Lodato stated that Staff decided on a municipal fine of \$2,000, which is \$1,000 per occurrence of the continued work after being told to cease work. Ms. Urena stated that this could be a filing fee or a municipal fine.

Brian Harris made a motion to approve the municipal fine of \$2,000. Seconded by Elliot Benton, and carried 6-0-0.

Applications to Be Received

1. #2024-025 – [1375 King Street](#) – Gregory Bottaro – Install a privacy fence within wetland areas. Tax #10-1003.
2. #2024-026 – [153 Riversville Road](#) – Jay Fain Associates for Deborah and Peter Shabecoff – Invasive management within wetland areas. Tax #10-1042.
3. #2024-027 – [76 Khakum Wood Road](#) - Redniss & Mead 76 Khakum Wood Road LLC - Pool, drainage, grading associated with new residential development with closest activity about 9 feet from a wetland. Tax #10-1457.
4. #2024-028 – [46 Dandy Drive](#) - Rocco V. D'Andrea, Inc. for West Rock Properties – Demolish and reconstruct a new residence with closest activity within 10' of a wetland. Tax #08-3936/s.
5. #2024-029 – [30 Beechcroft Road](#) – Sound View Engineers and Land Surveyors for Meghan McCormick – New garage and reconfiguring of driveway with closest activity from wetlands at about 43'. Tax #11-1741.
6. #2024-030 – [51 Pine Ridge Road](#) – Myra Klockenbrink – Invasive management within wetland areas including boardwalks and stone pathways. Tax #08-3544.
7. #2024-031 – [60 Midwood Road](#) – S.E. Minor & Co., Inc. for 60 Midwood LLC – Demolish and reconstruct a new residence, driveway, pool, pool house, patio, drainage and associated activities within 15' of a wetland. Tax #07-1092/s.
8. #2024-032 – [186 Bible Street](#) – S.E. Minor & Co., Inc. for Aviva & Joel Smernoff – New driveway, curb cut, retaining walls and drainage within 29' of wetland. Tax #08-3623.

9. #2024-033 – [44 Amherst Road](#) - Luigi Ghilardi for 10x Athletic LLC – Repair sewer lateral, waterproof foundation, plantings after the fact with closest activity about 45’ from wetlands. Tax #12-2322/s.

Brian Harris made a motion to receive applications 1 through 9 on the agenda, IWWA#2024-025 through #2024-033, to be considered next month. Seconded by Bill Baker, and carried 6-0-0.

Agent Approvals

1. #2024-008 – [66 Dingletown Road](#) – Land Tech for 66 Dinglewood LLC – Grading associated with a septic located about 82’ from an off site wetland. Tax #11-1806. (First 65 days 5-1-24)
2. #2024-010 – [57 Partridge Hollow Road](#) – Rocco V. D’Andrea, Inc. for Michael & Judy Poser – Addition, deck, garage, pickleball court, deer fence and related site improvements with closest activity about 57’ from a wetland. Tax #10-3550. (First 65 days 5-1-24)
3. #2024-012 – [82 Butternut Hollow Road](#) – Environmental Land Solutions for Philip & Brittany Baity – Swimming pool, patio and reconfiguration of driveway adjacent to wetlands. Tax #11-2746. (First 65 days 5-1-24)
4. #2024-023 – [61 Pecksland Road](#) – S.E. Minor & Co., Inc. for Joseph Elmlinger & Elizabeth Rockwell – Residential addition 92’ from wetlands. Tax #10-1222. (First 65 days 5-1-24)

No questions or comments.

Violations

1. Cease & Correct #2024-008 for George Geotes – 20 Hettiefred Road for improper installation of E&S controls, unauthorized tree removal and unauthorized trench allowing runoff and sediment accumulation in a wetland. Tax #10-2682.

Jennifer Urena stated that the record of documents is included in the record. Staff inspected the property of 20 Hettiefred Road in response to a complaint on March 11, 2024. There is also an active permit IWWA #2023-077 for this parcel. Staff found several issues with the work that took place that exceeded permitted activities under their active permit, which included improper installation of sediment and erosion controls as required, runoff and sediment accumulation in the on-site wetland, and a trench established on the side slope of the property actively allowing sediment to accumulate in the wetland. Also, erosion Control and LID Plan indicates an “Area Not To Be Disturbed” around the perimeter of the site, however it appears that all of the trees have been removed from the entire site, thereby changing the existing site conditions for both the review of the Wetlands department and DPW Engineering department. The contractor, Pasquella Iachetta, who was on site at the time of inspection was informed to immediately repair erosion controls. The next day Staff inspected the improvements and they appeared sufficient. Their authorized agent Robert Sandolo, with SE Minor, plans on providing weekly updates for the erosion and sedimentation controls while the project is on hold. A Stop Work Order was issued to the property owner on March 11, 2024 by certified and regular mail, and by email. Cease & Correct Order #2024-008 was issued via regular and certified mail on March 19, 2024. Staff recommended that the Agency maintain Cease & Correct Orders #2024-008, that a Certificate of Violation be filed on the

Land Records if an application to address the subject violation is not submitted by the deadline of April 15, 2024.

Rachael Orsi, from S.E. Minor & Co, stated that they were before the Agency in the fall for this application. They had gone through multiple meetings with a lot of conversation in regard to their proposed development. Both S.E. Minor and the client very much understand the sensitivity in terms of wetlands on this site and the current conditions. This is an unfortunate situation. As soon as the Stop Work Order was placed, there was immediate action from the contractor to address the silt fence that was unfortunately undermined and there were additional erosion controls placed to help kind of mitigate any other potential erosion. The S.E. Minor team understands that an application is being asked to address the Cease & Correct. Ms. Orsi would like to see if the Agency would be open to removing the Cease & Correct in order for the construction to continue, with the understanding that remediation plantings would be installed to address the additional trees that were removed. When this project was approved by Wetlands, it had outstanding DPW comments that specified that the stormwater control structures behind the residence would be installed first to control runoff coming from the site behind it. While the contractor was preparing the site to install these stormwater controls, the neighbor to the north had some trees removed, which were dropped into the wetland area. As those trees were taken out, the wetland was also affected by various brush clearing. The contractor on this site has been very cautious about working in and near the wetland area. When the sedimentation and erosion controls were placed, he had asked Staff on site if he was able to remove dead trees from within the wetland. He was aware that the area should not have been touched. Unfortunately, it was affected. While the contractor was preparing the site to install the stormwater controls in the rear, there was quite a large rain event which caused a lot of runoff from this site, but also from the neighboring property. This caused a lot of runoff to run down Hettiefred Road and across this site, undermining the soil and erosion controls, and effectively depositing sediment into the wetland.

Brian Harris asked Ms. Orsi to clarify that the trench down the slope was caused by water action and not digging. Ms. Orsi stated that the trench was from undermining of the soil and erosion controls. Beth Evans objected, and stated that the trench was dug under the silt fence. At the time of inspection by Staff, the silt fence was installed properly on both sides of the trench, which lead directly to the wetland area. The wetland had significant amounts of silt in it.

Ms. Orsi added that she visited the site with Wetlands Staff prior to the Stop Work Order. There was a request to remove a few additional trees on the opposite site of the property upslope of the wetlands, where the utilities were going to be placed. It was discussed with Staff that the area was outside of the Upland Review Area. Ms. Orsi commented that there may have been some miscommunication.

Ms. Urena stated that her field investigation report noted that the request was for the removal of two trees, which were in poor health and were okayed to be removed. However, in the area where trees were to remain, they were all removed. Ms. Orsi stated that Rob Sandolo was on site with the contractor and had a different understanding from their meeting. Ms. Orsi stated that it was a series of unfortunate events in a short amount of time. Once the Stop Work Order was in place, the contractor addressed the requirements. The erosion controls were fixed, and he is welcome to proposing more plantings to remediate what was removed. The contractor was able to hydroseed

the lot to help stabilize before the rain event last weekend. Additional plantings will be installed, and monitoring will take place to ensure that the wetland area is protected and remediated. The client is asking that the Cease & Correct be lifted so that the construction can continue on site. They will be stabilizing with retaining walls near the wetland.

Mr. Harris was reluctant to allow construction to continue.

Brian Harris made a motion to maintain Cease & Correct #2024-008 and place a violation on the Land Records if the Agency does not receive an application by April 15th, 2024.

Elliot Benton asked how many trees were removed. Ms. Evans did not have an exact count, but they removed all of the trees around the perimeter that were intended to be protected. Ms. Urena added that Staff met with Juan Paredes from DPW Engineering after the violation was found. He agreed that the existing site conditions has changed so drastically that it cannot be properly reviewed under the context of the existing permit.

Ms. Orsi stated that DPW is looking for analysis on site and how the existing conditions differ from what was originally existing. Her team reviewed the site and the engineers were able to find that the only item affected in their drainage design was a single outlet structure within a detention pond to the side of the driveway. One of the pipes would need to be increased from 4 to 6 inches, and the height of the catch basin would be raised by a few inches. Other than that, the drainage design was able to handle the changes. That analysis has been completed, but has not been reviewed by DPW.

Ms. Evans added that the impacts from this property, not only went into the wetlands on this property, but also went into wetlands downstream.

Michael Lombardi, a neighbor of 20 Hettiefred Road, stated that he can see two areas of wetlands from his home that this contractor intentionally filled in and dismantled. One at 20 Hettiefred Road and the other at 32 Hettiefred Road, which the contractor previously owned. Mr. Lombardi stated that the contractor cut down 4-foot-wide oak and tulip trees, and removed the stumps without silt fencing installed. The contractor put up the silt fencing on Saturday only after Mr. Lombardi contacted the IWWA office. It was in bad faith. Mr. Lombardi commented that the contractor is taking no responsibility for anything he has done. This weekend, Mr. Lombardi stated that he got cubic yards of silt onto his property. Mr. Harris asked Mr. Lombardi to submit any documentation for the record.

2. Cease & Correct #2024-009 for Grant Scott Gyesky & Mia Gail – 43 Byfield for unauthorized importation of fill, tree removal, and grading within a regulated vernal pool buffer area. Tax #11-1810.

Kristen Lodato stated that the record of documents is included in the record. On March 13, 2024, Staff inspected 43 Byfield Lane in response to a complaint. Work was not active, but a small excavator from Nardi Masonry & Construction was left on site. It was observed that fill was brought on site, trees cut, and regrading conducted without proper wetlands permitting. The work was completed within 100ft of a vernal pool, on the southeastern portion of the property. At the time, the purpose of this work was unclear. There were no erosion controls in place to protect the vernal

pool. Staff found that at least two mature trees in the wetland buffer area were removed without prior authorization. There were two stumps still present with logs chopped up and discarded to the side. The property owners were not present, so a Stop Work Order was left on the front door. The owner, Grant Gyesky, came to the IWWA counter today. He sent photos of the silt fencing installed on site. He also explained that they were regrading to put in a garden by the driveway. He stated that the two trees removed were hazardous to the residence. Staff recommended that the Agency maintain Cease & Correct Order #2024-009, that a Certificate of Violation be filed on the Land Records if an application to address the subject violation is not submitted by the deadline of April 15th, 2024.

Grant Gyesky stated that they were looking to install a 40 foot by 50-foot vegetable garden. The photo shows the space where the trucks were going to pull in and dump, next to the excavator. That fill is getting pulled back towards the driveway. Inside of the 100-foot upland review area they are looking to add fill, starting at 0 and going up to about 18 inches, over 20 feet. The entire garden sits outside of that upland review area. One of the trees removed was entirely rotted out. It was about 50 feet tall and growing 30 feet from the house and his kids' bedroom. That tree was taken down because it was going to fall down in a matter of time. The second tree is about 10 feet from the house, and it had large limbs that were hanging over it. He agreed that he should have come to Wetlands and gotten a permit for the activity.

Brian Harris asked if Mr. Gyesky received the new homeowner letter. Mr. Gyesky stated that he did not receive it. Ms. Lodato has the new homeowner letter on record, having been sent out in September 2023. This letter can be resent.

Brian Harris made a motion to maintain Cease & Correct #2024-009 and place a violation on the Land Records if the Agency does not receive an application by April 15th, 2024.

Mr. Gyesky requested an extended deadline of May 15th. He will not be able to get the plans in time for April. Ms. Evans was okay with that.

Adjourn

Brian Harris adjourned the meeting at 12:52 a.m.



Beth Evans
Director

The Town complies with all applicable federal and state laws regarding non-discrimination, equal opportunity, affirmative action, and providing reasonable accommodations for persons with disabilities. If you require an accommodation to participate, please contact the Commissioner of Human Services at 203-622-3800 or demetria.nelson@greenwichct.org as soon as possible in advance of the event.