

THE INLAND WETLANDS COMMISSION OF THE TOWN OF AVON HELD A VIRTUAL REGULAR MEETING ON TUESDAY, FEBRUARY 6, 2024, AT 7:00 P.M., VIA GoToMeeting: by web <https://meet.goto.com/247193317>; or by phone, United States: [+1 \(517\) 317-3116](tel:+15173173116), Access Code: [247193317#](https://meet.goto.com/247193317#).

Present were Chair Michael Feldman, Vice Chair Michael Sacks, and Commissioners Robert Breckinridge, Gary Gianini, Carol Hauss, and Thomas Kassan. Also present was John McCahill, temporary Planning and Community Development Specialist/Wetlands Agent.

Chair Feldman called the meeting to order at 7:00 p.m. There is a quorum of 6 Commissioners.

#### I. NEW APPLICATION:

**APPL. #791** – Avon Old Farms School, Incorporated, Owner and Andrew J. Bosse Forestry Service, Applicant; request for regulated activities within the 100 foot upland review area: construction of a temporary stream crossing(s) for a timber harvest. Locations: 555 and 625 Old Farms Road, Parcels 3360555 and 3360625.

Chair Feldman said that a timber harvest is an exempt activity as an agricultural usage and the main question for the IWC is the stream crossing over an intermittent water course. Andrew Bosse, a consulting forester from New Hartford, Connecticut, said there is a timber harvest planned for Avon Old Farms School (“AOF”) property. He did a previous timber harvest about 1-1/2 years ago on the north end of AOF property and the current plan is a continuation of implementing the forest management plan he did for AOF in 2021. This timber harvest will remove an average of approximately 30 trees per acre in an area of approximately 184 trees per acre. This is a relatively small percentage of trees being taken out. This will improve the quality and the health of the trees by removing some competition and thinning out the crowns. In 2018 there was a significant gypsy moth infestation in the Avon area and this AOF property has a fair amount of standing dead, unhealthy, dying, diseased and over mature trees. The objective of the harvest is to remove much of that and increase the vigor of the remaining trees and the overall stand health. There are advance regeneration, pine seedlings and saplings in the understory, and dense thickets so the harvest will help to get the next generation of trees growing.

Chair Feldman asked about the number of trees removed per acre and A. Bosse answered that he would removed about 30 trees per acre. The harvest area is about 150 acres and is highlighted in green on the Site Walk Map. That whole section of AOF property is the largest parcel of forest that they own and is approximately 400-450 acres. The number of trees being removed is about 16% of the whole. He will do a shelter wood type harvest to open the area up enough to allow some light in, free up the crowns, and increase growth rates. Chair Feldman asked if there would be any effect on habitats. A. Bosse said any effect would be positive because when you create new growth and regeneration on the ground, it is a bonus for wildlife. There is added browse for certain animals and cover nesting for birds as opposed to when you have an open understory with not much on the ground – the biomass is up in the crown of the trees versus on the ground. The idea is to spread the biomass out more and create some better habitat on the ground. This is not the primary objective but it is an ancillary benefit of forest management. Chair Feldman asked what it meant when the Cutting Plan sets forth that all remaining treetops and slash will be

lopped to a height of 6' or less. A. Bosse said that when a logging contractor cuts a tree down, they take out the majority of the stem, cut it into logs, and take it out. What is left is the top which is cut up and diced so it is not sticking up more than 6' above the ground. This residual top and debris is called slash and the measurement is slash height. The idea is to make the area more presentable and when you have the slash down to 6' it facilitates regeneration with new growth like seedlings and saplings and protects them from the deer by making it hard for the deer to access the new growth, especially oaks and hardwoods, which the deer prefer. Hopefully the new growth can escape the deer and reach maturity. He is also trying to create a mixed species forest for forest health. Chair Feldman asked about the stream crossing: why it is necessary, what alternatives were considered, and what impact it may have on wetlands and watercourses. A. Bosse said that the cutting erosion control plan and best management practices requires a Thompson Brook crossing as shown by a blue dot on the Site Walk Map. Roughly a third of the project area is north of Thompson Brook and two thirds is south so AOF does not have access to the area south of Thompson Brook. There is an old woods road which crosses Thompson Brook to the west of his proposed stream crossing but the road is not wide enough and is unsuitable for logging equipment, and the location itself is not suitable because of the way the stream bends. He thought it was a better idea to relocate the stream crossing to eliminate the possibility of soil erosion washing directly into the stream. The proposed stream crossing has a more suitable approach and is more level with well-defined stream banks on each side – he feels that it is an ideal spot. He added that the proposal is standard in the industry and shared photographs of another project he worked on where the stream was similar in size to Thompson Brook. The approach is lined with logs and a sizable gap is left so if there was a significant rain event, the bridge would not wash away. This bridge is similar though slightly bigger than the one done for the previous timber harvest at the north end of AOF property. Chair Feldman asked if the stream crossing would be removed when the project is done and A. Bosse replied yes. He added that there will be erosion control on the entrance road from Thompson Road to the staging area using geotextile fabric and then crushed stone on top which is essentially a long anti-tracking pad for truck traffic. He did not want to have any soil go onto Thompson Road. These measures improve the whole staging area and access for future projects down the road and it seemed prudent to do that. Chair Feldman asked when the property would be ready for another harvest and A. Bosse said 20 years though it would probably be on a smaller scale. The last time a timber harvest was done was about 40 years and the forest is in need of a lot of attention especially in terms of the diseased and damaged trees.

J. McCahill said that he summarized this proposal, an exempted agricultural practice needing a stream crossing, in his Staff Memorandum. R. Breckinridge recalled a timber harvest on Huckleberry Hill Road that involved pesticides. He asked if A. Bosse would use any pesticides and A. Bosse said no. J. McCahill clarified that on that project the pesticides were to be used on some invasive plant materials though the applicant opted not to do it. Vice Chair Sacks did not have any questions. G. Gianini asked A. Bosse how he monitors the stream integrity and about slash mats on either side of the bridge and A. Bosse said that it is typical to put slash mats within a few hundred feet of the approaches to the crossing. It is a simple way to “armor” the crossing and it acts almost like rip rap or crushed stones on the access road so as the logging equipment is traversing back and forth, the mats tend to take the soil off the tires so there is less soil that will end up on the bridge. G. Gianini asked how often A. Bosse or the Town check for erosion. A. Bosse said that he is there, especially in the first few weeks of the job, at least once or twice a

week to monitor things and J. McCahill can come anytime. A. Bosse would also notify J. McCahill if there were any issues. A. Bosse does not anticipate any issues unless there was a huge amount of rain though the soils in the area are extremely well drained – there are very dry soils on the whole property. The soil map shows this area as red which signifies excessively drained soils. The soils are basically gravel underneath so even when there is a rain event, the water seems to go right through. He said that last year when he was working on the north end of the property, even after a significant rain, the water went right through. J. McCahill said that after a heavy rain, he would go out there and do an inspection. He said that it is fortunate that this harvest will have the same contractor and forester as the north end project. A. Bosse said that that contractor, Connecticut Mulch from Enfield, did an excellent job, were very professional, and had all the ideal equipment. A. Bosse received comments from other forestry professionals that were impressed. C. Hauss had no questions. T. Kassan asked if A. Bosse will leave the dead wood in the forest and he said that he will leave a lot of it, including some standing dead, as that is recommended from a wildlife perspective. The technical term for it that biologists use is coarse woody debris and it benefits a whole host of wildlife. T. Kassan said that across Thompson Road there is a big infestation of Japanese barberry and he asked if there would be any invasive plant removal in the area or any management to prevent the spread. A. Bosse said that last summer he did some invasive plant control work in the area near the front of the property and did find barberry but the worst was bittersweet vines. Most of it was within 500-600' of Thompson Road between the staging area and the road and a little bit south of the staging area. He plans to do a little more this summer and he planned the treatment so that a lot of the invasives were already dead before this project to minimize the spread. T. Kassan asked if A. Bosse had seen many invasives in the area of the actual harvesting and A. Bosse said very little as excessively dry or well-drained soil is not conducive to most invasive plants – they tend to like wetter sites especially along streams like Thompson Brook. He noticed a few patches in the wetland itself close to the stream but there will not be any activity within 50 yards of the stream. T. Kassan asked about the harvest taking place on dry or frozen soil and if there was a specific time of season when the job would take place. A. Bosse said that they are anticipating starting sometime in February as the forecast looks favorable. Last year they worked through the winter and had no issues. If there was extremely high rainfall, he may have to hold off for a few days but he feels that these contractors use good judgment.

J. McCahill said that he had some recommended approval conditions in his Staff Memo. Vice Chair Sacks made a Motion to Approve Application #791 with the conditions J. McCahill set forth. T. Kassan seconded. The Motion passed unanimously.

II. COMMUNICATIONS FROM THE PUBLIC (unrelated to any Application): None.

III. OTHER BUSINESS:

A. Discussion of Potential Approval Letter Modifications:

G. Gianini said that the intent of looking at other towns' approval letters is to get into the routine of using the language in the IWC Regulations when the IWC makes a decision. He feels that it will be a good habit to refer to Section 10.2 a.-f. which are the criteria for decisions. He thinks that it looks like these other towns have done their work and anyone can go back to this

reference. Chair Feldman asked if G. Gianini is suggesting that the minutes be more inclusive or that the actual approval letter that gets sent to the applicant be more inclusive. G. Gianini said he meant the approval letter but it should also be in the minutes. The examples he provided are pulled from the minutes of those towns. He said that Appendix B, Section 2, of Avon's Inland Wetlands Regulations lists definitions and it is a checklist for him when talking about applications. He feels that especially with new IWC members, it would be good to think through applications this way. Chair Feldman asked J. McCahill for his opinion given his many years of experience. J. McCahill said that the minutes for the Town's land use commissions are very detailed and when debating about making a decision on an application, the minutes are the most appropriate place to have steps like this in place, and the IWC should be very deliberate in the process used to make a decision. He would be concerned trying to create and craft this language into an approval letter. He thinks it is a good process in preparation for approving or denying an application but he is concerned taking the next step and including it in an approval letter. It would be hard to come to terms with all 8 of the items listed. He thinks that the second example is more articulate and the way that it is worded and phrased is more deliberate. He thinks this list would be a preamble to an approval letter but not in an approval letter. G. Gianini said that he likes the idea of having a process as the IWC discusses and reviews an application.

B. Staff and Commissioner Comments (unrelated to any application):

J. McCahill reminded the IWC of the webinar with Attorney Kari Olson that will be an overview on FOIA, ethics, and how to run a meeting on Wednesday, February 28, 2024 at 7:00 p.m. The meeting should be recorded and available to the IWC afterwards. Vice Chair Sacks asked if this meeting was a repeat of what was done previously. J. McCahill said that other land use commissions have training requirements but IWC does not yet. Chair Feldman said that the presentation from K. Olson last year was similar to the upcoming meeting.

G. Gianini asked if a town agent can deny the presentation of an incomplete application. J. McCahill said that he cannot refuse to accept an incomplete application. He would bring it to the IWC's attention that it was incomplete but ultimately the IWC would determine that it was incomplete. G. Gianini asked if the IWC could approve an incomplete application with conditions and J. McCahill said that it could not. G. Gianini asked what the IWC's options would be if an applicant presented an incomplete application. J. McCahill said that the Chairman could state on the record that there are concerns with the completeness of an application and deny the application. Chair Feldman said that the IWC has done that in the past and asked an applicant to come back with a proper application. G. Gianini asked if an incomplete application could be denied outright. J. McCahill said that typically once an application has been received, he would review it and create a Staff Memorandum and Chair Feldman said that he has seen a Staff Memo that identifies that the application is incomplete.

Vice Chair Sacks asked about the revisions to draft regulations regarding complex applications. Chair Feldman said that it was not on the Agenda though some Commissioners have submitted written comments which are under consideration with Town Counsel. J. McCahill said that Hiram Peck, the Director of Planning and Community Development, sent out an email confirming that he received comments from three Commissioners and would try to come up with a compromise solution to everyone's concerns. Vice Chair Sacks wondered if there was a

consensus regarding the comments from the Commissioners and whether the IWC can explore to what degree there is a consensus. He would like to be firm about what the IWC would like to see. J. McCahill reiterated that he would tell H. Peck that the IWC wants this topic on the next agenda. Chair Feldman said that after much discussion on the regulations the last few months, the IWC has made clear what they want and what needs to be done to make a workable resolution. Vice Chair Sacks asked if the Commissioners had any disagreements about the comments that they have made. For example, is the severity of the damage to the environment relevant to considering whether an application is complex. He felt this was irrelevant and that the complexity refers to technical issues and not to the severity of the damage to the environment. He wondered if others agreed with this. Chair Feldman agreed with Vice Chair Sacks and said that the seven criteria used for the definition of complex were themselves highly technical and not workable without having expert testimony which makes a catch-22 – the IWC would need expert testimony just to determine whether the IWC was entitled to expert testimony. Vice Chair Sacks said that the proposal was wrong and was phrased in a way that required that the conditions had to be particularly severe for the IWC to consider it complex. He also thinks that the decision should be made by the IWC regarding whether the application is complex or not and whether a particular expert should be hired or not. These two items are the most essential and if the IWC is in agreement on those, then the proposal presented to the IWC needs to be very different. G. Gianini agrees that the sticking point is who makes the decision – the purpose of this regulation is because the IWC lacks the expertise. He sees this regulation as an option to expedite an application and he would like to have the confidence that the IWC can have someone else come in so two experts can talk. If the experts have different opinions, the IWC can use that information to make a decision. He would like something to get worked out and he trusts that everyone will work in good faith on this. Chair Feldman said that his preference was the draft regulation that was approved in December which was very close to the DEEP model regulation. He like that approach, it was already approved by DEEP, it has been adopted by a lot of towns, it is consistent with the statute, and it is very simple and straightforward.

C. Approval of Minutes: December 5, 2023 – Regular Meeting. R. Breckinridge made a Motion to Approve the December 5, 2023 minutes. Chair Feldman seconded. The Motion passed 5-0. T. Kassan was not in attendance at the December 5 meeting.

Approval of Minutes: January 16, 2024 – Special Meeting. Chair Feldman asked for a change to the Minutes and J. Stokesbury indicated that she would have to review the recording of the meeting. Chair Feldman asked to table the January 16, 2024 minutes.

#### IV. NEXT REGULARLY SCHEDULED MEETING: March 5, 2024.

Vice Chair Sacks made a Motion to Adjourn. T. Kassan seconded. The Motion passed unanimously.

There being no further business, the meeting adjourned at 7:55 p.m.

Janet Stokesbury  
Clerk, Inland Wetlands Commission  
Town of Avon Department of Planning and Community Development