

THE INLAND WETLANDS COMMISSION OF THE TOWN OF AVON HELD A REGULAR MEETING ON TUESDAY, JULY 2, 2019, IN THE SELECTMEN'S CHAMBER.

Present were Clifford Thier, Chair, and Michael Beauchamp, Vice-chair; and Commissioners Bob Breckinridge, Michael Feldman, Jed Usich, and Martha Dean. Absent was Commissioner Dean Applefield. Also present was John McCahill, Planning and Community Development Specialist/Wetlands Agent.

Chairman Thier called the meeting to order at 7:00 p.m.

OUTSTANDING APPLICATIONS:

APPL. #761 – Nod Road Preservation, Inc., c/o Robinson & Cole, LLP applicant: Requests proposed regulation text amendment of the Town of Avon Inland Wetlands and Watercourses Regulations: The proposed amendment expands the upland review area for applications proximate to Avon's watercourses from 100 feet to 200 feet measured horizontally from any watercourse boundary.

A special meeting for a public hearing on Appl. #761, will be held on Wednesday, July 17, 2019.

APPL. #762 – Rotondo Pizza House Inc., and Delores Wiener, and the Estate of Philip Rotondo, owners; Connecticut Self Storage of Avon, LLC, J.R. Clisham applicant: Requests for regulated activities within the 100 foot upland review area: 1) Convert existing parking lot to a detention basin. 2) Demolish existing buildings, construct parking lot and access drives, construction of building, related grading, utilities and drainage. 3) Enhance existing vernal pool; crush discharge pipe, minor regrading of existing "piles," create depressed area. Location 275 West Main Street, Parcel 4540275; and 279 West Main Street, Parcel 4540279.

Present on behalf of the owners, was Attorney Robert Meyers, of the Law Offices of Robert M. Meyers, LLC.

John McCahill stated that he received a voicemail from J. R. Clisham today who indicated that he would be withdrawing his application, likely due to architectural challenges. Town staff will contact Mr. Clisham for a formal letter of withdrawal.

APPL. #763 – Avon Mill LLC c/o Silco, owners; Lee Land Development, LLC, applicant: Requests for regulated activities within wetlands and/or the 100 foot upland review area: 1) Remove invasive species (purple loosestrife) in wetlands area (existing retention basin). 2) Construct a portion of new road and parking area (6,500 square feet of new impervious surface) and construct infiltration basin within 100 foot upland review area. 3) Remove invasive species and replace with native species and wetlands seed mix. Remove landscape debris and litter. 4) Stabilize existing drainage channel with riprap in eroded places. Create two infiltration swales from existing paved leakoffs. Location 64 Avonwood Road, Parcel 1220064.

Present on behalf of Appl. #763, were Attorney Robert Meyers, of the Law Offices of Robert M. Meyers, LLC; Tim Lee of Lee Land Development, LLC; David Whitney, Professional Engineer,

of David F. Whitney Consulting, LLC; and Michael Klein, Registered Soil Scientist and Professional Wetland Scientist, of Davison Environmental.

Mr. Whitney stated that he had presented the application at length at the Commission's regular meeting of June 4, 2019, and therefore he would address revisions made to the plans and address any of the Commission's questions. The original set of plans submitted with the application consisted of four sheets and five additional sheets have been added to the set. Sheet 1, the Cover Sheet, was originally dated April 24, 2019; revisions were made on June 10, 2019, and it was submitted on June 17, 2019; and after additional comments, the second revision date on the plans is June 21, 2019. The only changes to Sheet 1 were based on discussions from the last meeting, and John McCahill's comments from his memorandum dated May 29, 2019. Sheet 2, named Existing Conditions, has been revised with additional wetland delineations on the western boundary of the site. Shown on Sheet 2 are the 100' upland review area around Wetland Area 1 and Wetland Area 2, and the 100' upland review area from the alluvial soils line, also at the western end of the site. Both Sheets 1 and 2 were part of the original plan submission. Sheet 3 is the Overall Plan of Development, and it shows the three existing apartment buildings, the two proposed additional buildings, the proposed loop road around the site, and the 25 duplexes that will either be two-unit buildings or four-unit buildings. The purpose of this plan is to show that, other than the activities within the 100' upland review area of Wetland Area 1, there are no additional regulated activities proposed for this project. It is a big project. However, there are minor regulated activities within the upland review areas, or activities within the actual wetlands. In Wetlands Area 2, on the eastern portion of the property, there are no proposed regulated activities anywhere near the wetlands. The road on top of the hill comes close to the alluvial wetlands soils, however, it is at a higher elevation. The wetlands were delineated in the field in order to be precise. Sheet 4, the Overall Grading Plan, shows the existing developed area of driveways, buildings, and parking; it includes approximately 16 acres. The area of proposed grading and development is shown in orange and is also approximately 16 acres. The green areas are the existing woods that will remain and it includes 14.5 acres, approximately 34% of the site. Sheet 4 also shows that there is some proposed grading and proposed construction activities within the 100' upland review area associated with Wetland Area 1. Sheet 5, the Proposed Activities within Wetlands Regulated Area, is the most important sheet in the set. It shows the details of all of the activities proposed within the 100' upland review area. Those activities are shown in grey, and the red line represents the 100' upland review area. The area of existing woods, shown in green, was previously called the wetlands remediation area. However, the term is incorrect as wetlands are not proposed to be filled or created. Mr. Klein indicated that it should be correctly phrased as a *wetlands enhancement area*, and it is shown on the sheet with speckled markings. Once the invasive species are removed, Mr. Klein will direct the infill planting of the buffer zone. There are two paved leakoffs which currently direct storm water runoff to the wetlands. Previously, two infiltration swales were proposed to allow storm water to meander to the wetlands and infiltrate the ground. However, due to the close proximity to the wetlands, and the desire for a higher level of treatment, the proposed paved leakoffs will be replaced with two catch basins with two-foot sumps to catch debris. A proposed storm water infiltration system will allow water from a normal storm to enter leaching chambers, which will be surrounded by stone and buried within the very well-drained soil of the site; and an overflow pipe will discharge water from a large storm into the wetlands. Therefore, by eliminating the originally-proposed infiltration swale from the plan, and adding the catch basins and infiltration

system, the majority of future storm water will be treated. The systems are designed to absorb water from a 100-year storm, at the rate of eight inches within 24 hours from the new paved area. Additional water will not be added to the wetlands. There will be an overflow to the water quality basin, with a spillway to the wetlands. This is an extra measure in the event of a larger storm, or if the system gets clogged. There will also be infiltration systems on both sides of the proposed road at certain intervals. As requested by staff, drainage calculations and proposed elevations for the storm manholes and leaching chambers have been added to the sheet. A heavy marked line for the limit of clearing has also been added to the sheet. A clearing of scrub growth is proposed where the outlet pipe for the infiltration system discharges; and there is another clearing area of the scrub growth to build the water quality basin. Otherwise, the proposed construction will take place outside of the existing tree line. The areas of proposed clearing will be inspected by Town staff prior to cutting. There will be a silt fence installed at the limit of clearing. A general construction sequence has been included on the revised plans. Sheet 6 is additional to the Town's requirements for plans and is named, a Typical Storm Water Management Plan. It shows that each of the proposed duplexes will have individual ground infiltration systems for rainwater from rooftops and driveways, and the systems are sized for the 100-year storm. The proposed streets will have catch basins at intervals of 200 feet. There will be infiltration swales on either side of the proposed driveway and culverts at various intervals. Additional runoff from the infiltration systems, especially during large storms, will direct water to the infiltration swales. Sheet 7 shows the infiltration systems in detail. The non-wetlands soils on the site are so well-drained that the systems will work very well. Cross-sections are shown for the roadway, spillway system, and the water quality basin. Sheet 8 consists of the Town of Avon's standard details, which are to be included on the plans; and those details will be incorporated even though the proposed roads will be private. Sheet 9 is named, Cross-section 29+50, and shows a quad unit with four one-bedroom apartments; it is the unit closest to the alluvial soils on the western portion of the property, although it is above the wetlands boundary line. A cross-section near the wetlands delineated recently by Mr. Klein, and the proposed grading, is shown on this sheet. At the closest point, the proposed activities are not within the 100' upland review area. The Commission also should have received a copy of a letter, originally submitted on June 17, 2019, which was amended on June 25, 2019, with responses to John McCahill's memorandum. A letter received from the CT Department of Energy and Environmental Protection (DEEP) regarding the Natural Diversity Database's state-listed species has also been submitted to the Commission. All additional or amended documents were submitted to the Commission at least seven days prior to this meeting. Two pages detailing the construction sequence have been submitted. The maintenance protocol submitted was written based on the 2004 Connecticut Storm Water Quality Manual regarding the maintenance of the existing basins. The protocol details the monitoring, maintenance, and repair of various elements as needed. A report detailing Mr. Klein's recommended wetlands enhancement plantings is included in the documents. A percolation test near Wetlands Stake 3 indicates that the soils are well-drained. A two-page summary of the drainage report is included, and the Commission also has a full set of all calculations. Mr. Klein's recent soils delineation was conducted on June 12, 2019.

Commissioner Usich commended Mr. Whitney on the well-designed plans. He inquired if by connecting the roads, additional water would flow into the wetlands.

Mr. Whitney responded that an event larger than the 100-year storm could produce excess water; however, it would flow into the basins.

Commissioner Feldman sought clarification on Sheet 5, regarding the specifically marked areas of the proposed activities within the regulated area. He also sought a better understanding of the processing of water through the infiltration systems, and whether or not there was the possibility of a resultant swamp-like condition.

Mr. Whitney responded that one of the grey shaded areas on the plans indicated the impervious roadway. Another area indicated the retention basin designed to retain the runoff from the existing adjacent apartments. Over the years, the basin has developed wetlands characteristics by receiving storm water on a regular basis. The enhancements will involve removing invasive species and adding non-invasive species. The rain will collect in the gutters and downspouts, and go through a storm manhole, and then to the infiltration system. It is essentially comparable to the functioning of a septic system, but for rain water. A swamp-like condition would not result in the processes. Ninety-nine percent of the storms in Connecticut accumulate in one inch of rain or less. These systems are designed for eight inches of rain per storm, and the vast majority of storms will not fill the systems. One of the principles of storm water design is to think about the scenario of what would happen if everything were to fail. If everything failed in an event beyond the 100-year storm, the water would go along the swales and into the wetlands.

Commissioner Dean commended Mr. Whitney on the well-designed plans.

Vice-chair Beauchamp inquired about the existing basin and whether or not Mr. Whitney planned to have it completely cleaned and remediated. He requested details of the clean-up.

Mr. Whitney responded that the invasive species, trash, and piles of pine needles would be removed. The natural wetlands plants would be protected.

Attorney Meyers stated that the basketball, tire, and all other debris would be removed.

Commissioner Breckinridge commended Mr. Whitney on the well-designed and thorough plans. He inquired who would be responsible for conducting the maintenance.

Mr. Whitney responded that the owner would be responsible for hiring a company to conduct the work.

John McCahill indicated, in his memorandum, that the applicant would be responsible for advising the Town which contractor would be appropriate for the work. The Town has in the past requested this information, by the way of annual reports, from a number of commercial projects. Town staff is satisfied with Mr. Whitney's responses to staff comments, and also with the revised plans presented before the Commission.

Commissioner Feldman inquired regarding the upper road on the plans, and whether or not there had been any consideration for installing a pervious road surface.

Mr. Whitney responded that Commissioner Feldman may have been referring to permeable asphalt instead of pervious pavement. There are local commercial sites that have installed permeable asphalt that is functional. However, the surface needs to be vacuumed on a regular basis. Due to the advantages of the well-drained soils present at this site, the permeable asphalt is not proposed as an alternative solution.

John McCahill indicated that he is not waiting for any additional information from the applicant. The questions related to his memorandum dated June 26, 2019, had been answered. His six recommended approval conditions would satisfy the remaining items.

Commissioner Feldman motioned to approve Appl. #763, with the conditions as enumerated in John McCahill's memorandum dated June 26, 2019.

Attorney Meyers stated that his client understood and accepted those referenced approval conditions.

Commissioner Dean seconded the motion. All were in favor, and Appl. #763 was unanimously approved.

APPL. #764 – The Estate of Donald L. Cole c/o William K. Cole, owner/applicant: Requests for regulated activities within wetlands and/or within the 100 foot upland review area: 1) Wetlands crossing #1, proposed driveway (approximately 1551 linear feet) with culverts and fill. 2) Wetlands Crossing #2, proposed driveway (40 linear feet) with culverts and fill. 3) Construction of driveway (470 linear feet), house, septic system, well, utilities, and related grading within 100 foot upland review area. 4) Excavation in upland review area to provide compensatory flood storage volume for driveway fill. Location 70 Sunrise Drive, Parcel 4190070.

Present on behalf of Appl. #764 were Bill Cole, the executor for the estate of Donald L. Cole; David Whitney, Professional Engineer, of David F. Whitney Consulting, LLC; and Michael Klein, Registered Soil Scientist and Professional Wetland Scientist, of Davison Environmental.

Mr. Whitney stated that the application is essentially a proposed driveway through two areas of wetlands, with proposed regulated activities in the 100' upland review area. It is a two-lot subdivision on a 12-acre parcel; four acres will be in the front and incorporate the existing house, and nine acres will be in the back with the proposed house. The site walk on the property was conducted prior to this meeting. Changes to the original plan have not been made yet in order to allow for feedback from the site walk, and to be apprised of the requirements resulting from the discussion from this meeting. There is also the issue of whether or not the Commission would require a public hearing. However, a response letter to John McCahill's memorandum dated May 29, 2019, was prepared for this meeting. In the response letter, the locations of the existing site components, including Big Brook that flows through the wetlands, and a FEMA designated floodplain were described. Big Brook has a floodway. However, not all watercourses have floodways. The site contains six acres of wetlands and six acres of non-wetlands. Mr. Whitney indicated that his team looked at the possibility of accessing the developable portion of the site, from the direction of Haynes Road, including crossing Big Brook and the upper wetlands; however, the disturbance would be too great.

Chairman Thier requested that Mr. Whitney explain the term *floodway*.

Mr. Whitney depicted the floodway with an illustration. He described a watercourse with a typical embankment. Normally, if the water rises, the watercourse will flood onto the adjacent property. That area of flooding would be called the floodplain; typically it is measured by the 100-year flood line, the measure which FEMA utilizes. If a property is within the 100-year flood zone, flood insurance would be required. Within the flood zone, are two components: one is the floodway, the area in which the majority of the water flows during the storm event; the other is the flood fringe, located on either side of the floodway. If the flood fringe were to be filled, the flood elevation would not be raised by more than one foot. Ninety-nine percent of the water flows through the floodway, although every watercourse has different factors. FEMA views activities within the flood fringe as being better than activities within the floodway. Town regulations allow for activities within the flood fringe, like those proposed in this application. Activities within the floodway are allowable only for local municipal or state projects. Big Brook has a 70-foot wide floodway because it is a small watercourse on relatively flat land. When it overflows, there is a wide floodway. A lengthy bridge would have to be built to cross Big Brook to access this property, and that is not an appropriate action. On the proposed plan, the portion of the driveway proposed to go through the wetlands would actually go through the flood fringe and a portion of the flood zone. That is the reason for filling 2.5 feet to keep the driveway above the flood elevation. There is an area that would be excavated to compensate for the flood storage in the filled area. This type of activity is allowed under the Town of Avon's flood regulations, as part of the zoning regulations. Culverts cannot be installed in the floodway unless it is a project for the local municipality or state. The access from Haynes Road could have been shorter, as an alternative, under these circumstances. The proposed second wetland crossing is at a higher elevation than the floodplain, which is an elevation of 190 feet. The two feet of fill in this crossing is not in the floodway, and therefore compensatory measures for flood storage would not be necessary. The added benefit of the area to be excavated is that it will turn into wetlands over time. The Town staff has recommended a double row of silt fences and hay bales which will be installed. The Town has requested a conservation restriction on a portion of the remaining wetlands, and it is something that the applicant is considering. Flow-arrows on the plan show a sharp curve for the intermittent watercourse which leads to the pond. Flow-arrows will be added for the direction of water flow associated with the intermittent watercourse. The limits of clearing will be added to the plans. Regarding the issue of correspondence from the Army Corps of Engineers, the plans purposely keep the limits of disturbance under the 5,000 square foot threshold, and therefore the correspondence has not been prepared.

Mr. Klein indicated that there are three levels of activities potentially involved with federal permitting: an individual permit, a preconstruction notification, and a self-verification letter. The self-verification letter would be submitted at the start of the project to document that the terms and conditions of permitting would be met. Correspondence with the Army Corps of Engineers would not occur until the applicant is ready to begin construction.

Mr. Whitney indicated that the soil testing for the proposed septic system was conducted at the north and east portions of the site. The soil data were submitted to the Farmington Valley Health District (FVHD). The soils are very well-drained. A letter of response to the soils data is expected from the FVHD. Approval from the FVHD is anticipated without problems. Details of

the compensatory excavation will be provided. Recommendations were provided in the Davison Environmental report by Mr. Klein, and this will be incorporated. A post-inspection schedule will be prepared by Mr. Klein. A reference mistake in the Davidson report will be corrected, as noted in John McCahill's memorandum comments.

Several of the Commissioners began a discussion on whether or not a public hearing should be scheduled for this application.

John McCahill referenced his memorandum where it noted that the agency needs to determine whether or not the proposed activity may have a significant impact on wetlands and watercourses. The Town has criteria in its regulations indicating which activities define significant impact. A significant impact may involve removal of any material directly in or from a watercourse, or any other activity that will cause direct disturbance to a wetland or watercourse. The Commission should deliberate these issues as to whether a hearing is warranted. He distributed copies of verbiage from the Town of Avon Inland Wetlands and Watercourses Regulations to the Commissioners. He stated that the Commission is not required to hold the public hearing. The decision is at the discretion of the Commission based upon the criteria in the regulations.

Commissioner Usich requested that Mr. Whitney respond to the questions posed in the e-mail correspondence from Matt Shultz, of 81 Haynes Road, dated June 26, 2019, sent to Town staff.

Mr. Whitney responded that he had mentioned the house at 81 Haynes Road had been shown on one of the presentation sheets. The team did speak to Mr. Shultz at the time of discussion for the placement of the driveway. Mr. Shultz had mentioned that he has two 30-inch culverts that carry the flow from Big Brook. He had expressed concern that the proposed installation of culverts in this project would create a potential water back-up onto his property. It was explained to Mr. Shultz that the proposed project would involve the installation of larger capacity culverts to address the issue. Mr. Whitney pointed to an area on the map of potential overflow from the brook that would be at a lower elevation than Mr. Shultz's house. The water at that location would flow downward and to the east, and would not have an impact on his property. Mr. Shultz was also concerned about the placement of the proposed house.

Commissioner Feldman requested that the Commission determine if the threshold of proposed regulated activity warranted a public hearing.

John McCahill read from the last paragraph in Mr. Klein's report dated May 28, 2019. His recommendations to minimize and mitigate the impact on the site's resources have been incorporated into the plans.

Mr. Klein briefly summarized the site conditions. The wetland system drains to the eastern pond. There are a couple of intermittent watercourses in that area. The major water feature is Big Brook. The intermittent watercourse that is in the center of the site is just south of the proposed house location and is well-defined. The intermittent watercourse on the southern side of the site, which flows northeasterly, is more diffuse. It is a typical wetland swamp with wetland vegetation. It has one well-defined channel at the center point. He recommended to use

an envelope fill, where geotextile would be installed along with gravel and then covered over. Culverts were recommended at areas where they were needed to carry water for the appropriate watercourse. There would be an extensive series of measures that would allow both surface and ground water to continue to flow as they have in the past. It is not necessary at the northern crossing, as the flow is well-defined at this location. The flood zone requires storage capacity for additional floodplain volume equivalent to that which will be removed by the proposed fill. The storage volume would be easy to execute on this site and it would provide an additional function in compensating for wetland loss. The area to be excavated will be adjacent to a wetland. It will be revegetated with wetland species. It was recommended to modify the grading slightly with a two-foot encroachment to tie back into the existing wetland. A berm can be removed and a larger wetland can be created. It was his opinion that with those measures incorporated into the plan, there would be no significant adverse functioning to the wetlands system.

Commissioner Feldman revisited the issue of the determination for a public hearing. He advised it was a threshold matter. He did not see how the Commission could deny that the proposed plan might have a substantial effect on the wetlands and watercourses on the site.

Commissioner Dean stated that the soil expert opined that the impact would not be significant.

Chairman Thier stated that the Commission is not obligated to accept an expert's opinion. It has a certain amount of weight; however, the Commission needs to be convinced by the expert.

Commissioner Feldman thought that the proposed plan would likely involve a significant impact to the wetlands and watercourses resources, even though the proposed plan of the application would appear to minimize the impact. It would seem likely also that there should be a public hearing to determine the extent of the impact significance. The regulations seem to suggest a two-step process.

Commissioner Dean indicated that there have been several applications heard by the Commission involving the regulated activities of driveway installations within wetlands, and those application outcomes have been determined without holding public hearings.

Commissioner Dean read aloud the section of the Town's regulations related to the determination for a public hearing at Chairman Thier's request: "The Agency shall not hold a public hearing on an application unless (1) the Agency determines that the proposed activity may have a significant impact on wetlands or watercourses;..."

John McCahill indicated that the term *impact* was defined on the second page of the provided regulations hand-out, in Section 2 – Definitions, 2.1 aa. of the Town's regulations.

Commissioner Dean read aloud the definition of *impact* in Section 2 – Definitions, 2.1 aa. of the Town regulations: " 'Significant impact' means a substantial effect on the physical, chemical, or biological characteristics, or on the functions of values, of a wetland or watercourse, which effect is caused by regulated activities that may include, but are not limited to, the following: 1. Any activity involving deposition or removal of material directly in or from a wetland or watercourse,

and any other activity involving direct disturbance of a wetland or watercourse. ..." She posed the question to Mr. Klein as to whether or not the proposed plan "may" have a significant impact.

Mr. Klein did not believe that there may be a significant impact. He was not speaking for the Commission. Every activity that falls within a wetland boundary involves the deposition or removal of a wetland material. There is a direct impact on the wetland. In his opinion, the impact would not be significant.

Mr. Cole indicated there would be a post-construction follow-up by Town staff to ensure that measures on the approved plan and approval conditions were met.

Chairman Thier requested clarification from John McCahill as to whether or not there was the unresolved item of protecting a portion of the land.

John McCahill stated that there were still a number of changes that would need to be made to the plans. The Commission needs to determine the format in which to continue the meeting; either in the manner it has already been conducted, which can be carried over into another meeting, or in the format of a public hearing. The applicant will have to return before the Commission, regardless, in order to address further changes to the plan. The date for a public hearing will also need to be determined. The applicant will be required to pay an additional \$400 fee for a public hearing; and the applicant will need to send notices of the public hearing to the abutting property owners, via certified mail.

Commissioner Dean inquired of John McCahill if he could recall specific applications where public hearings were held for sites involving driveways through wetlands.

Chairman Thier inquired if the precedent was to hold public hearings in these cases.

John McCahill responded that the precedent was to hold public hearings for those applications. He cited a recent application at White Birch Lane which the Commission determined required a public hearing due to the proposal to fill in wetlands.

Chairman Thier indicated that the Commission should not break precedent and it should continue to hold public hearings if the Commission determines that there may be significant impact; unless there is an overriding reason not to hold a public hearing, even if there may be significant wetlands and watercourses impact.

Chairman Thier made a motion to hold a public hearing on Appl. #761, at the date of the next regularly scheduled Inland Wetlands Commission meeting on September 3, 2019.

John McCahill stated that the Commission has 65 days to schedule a public hearing, and it would have a deadline of August 7, 2019. However, the applicant has the authority to grant the Commission an extension of an additional 65 days. The Town would follow-up with the applicant for the grant of the extension. An extension would still need to be granted to the Commission even if it held a regular meeting, instead of a public hearing, and if the date went beyond August 7, 2019.

Chairman Thier inquired of the applicant if he would consent to the extension in order to present the application at a public hearing on September 3, 2019.

Mr. Cole consented to the extension for the application to be presented at a public hearing on September 3, 2019.

Commissioner Usich seconded the motion to hold a public hearing on Appl. #761, at the date of the next regularly scheduled Inland Wetlands Commission meeting on September 3, 2019. All were in favor and the public hearing date was set.

John McCahill reiterated the applicant's requirements to hold a public hearing: to submit an additional \$400 fee; provide a written extension of time to hold a public hearing; send notices to the abutting property owners in late August, in accordance with the regulations; and address any of the outstanding issues related to the proposed plan for the site.

Commissioner Breckinridge inquired about the effects of the driveway installation on the entire ecosystem. He inquired how the migration of the smaller organisms and creatures that use the pond would be affected. He wondered if the construction would disturb the system.

Mr. Klein responded that the proposed construction activities would not affect the creatures in any way. They are capable of mounting a fill of this proposed height. The primary generator of mortality for small animals, amphibians, snakes, and turtles, is vehicular traffic. Just a few trips of traffic on the constructed driveway per day will be very minor.

OTHER BUSINESS:

John McCahill provided the status on the property of Mr. Martin, at 232 Avon Mountain Road. He is currently constructing a house. The house is outside of the 100' upland review area. The Town of Avon is in possession of the \$30,000 bond. The plantings are required by October 1, 2019. A list of plantings has not yet been provided.

Commissioner Feldman requested updated information on the Blue Fox Run Golf Course law suit. He requested more information than the historical updates that appear on the CT judicial case website, and wanted to be apprised of impending events. He wanted to know the strategy for the appeals case and requested an opportunity for the Commission to discuss with the Town's attorney the issues that would be raised.

John McCahill stated that there was a motion to depose the Commission. Town Attorney Kari Olson filed a motion for dismissal. On June 28, 2019, Attorney Landolina withdrew his motion to permit discovery of the Commission members. There remains a pending motion on behalf of Nod Road Preservation, Inc. to intervene, filed on June 12, 2019. There was a memorandum filed in support of that motion by the attorney that represents Nod Road Preservation, Inc. There was an extension of time filed by Attorney Landolina on June 13, 2019. There is currently a hearing scheduled on August 23, 2019, for all parties. He stated that if the Commission wanted Town Attorney Olson to discuss related issues prior to the August hearing date, he would contact

her with that request. He indicated there would have to be notification of a special meeting for an executive session.

John McCahill made reference to the draft of the 2020 Calendar for meetings for review and approval by the Inland Wetlands Commission.

Vice-chair Beauchamp motioned to approve the calendar as submitted. Commissioner Dean seconded the motion. All were in favor and the calendar was approved.

APPROVAL OF MINUTES:

Chairman Thier inquired if there was a motion to approve the minutes.

- Minutes - June 4, 2019, Regular Meeting: Commissioner Dean moved to approve the minutes as submitted, and Vice-chair Breckinridge seconded the motion; all were in favor and the minutes were approved.

NEXT REGULARLY SCHEDULED MEETING:

The next regularly scheduled meeting is Tuesday, September 3, 2019.

There being no further business, the meeting adjourned at 8:32 p.m.

Susan Guimaraes, Clerk
Inland Wetlands Commission
Town of Avon Planning and Community Development