

THE INLAND WETLANDS COMMISSION OF THE TOWN OF AVON HELD A VIRTUAL REGULAR MEETING AND PUBLIC HEARING ON TUESDAY, MARCH 2, 2021, AT 7:00 P.M., VIA GOTOMEETING: by web, <https://global.gotomeeting.com/join/320006605>; or by phone, United States: +1 (408) 650-3123, Access Code: 320-006-605#.

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

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

Chair Thier read aloud guidance on the process related to the virtual meeting and public hearing.

PUBLIC HEARING:

APPL. #767 – Michelle and Anthony Angeloni, applicants; Jason L. Addison, owner: Request: 1) partial elimination and redirecting of existing intermittent watercourse (eroded drainage swale); 2) construction activities within 100' regulated area; proposed activities include construction of single family residential house, driveway, septic system, detached garage, pool, retaining walls, and related site grading; 3) removal of invasive species and large trees and install new plantings to create wet meadow; applicants also request a modification to the previously designated conservation area/restriction. Location: 4 Vermillion Drive, Parcel 4420004.

John McCahill introduced the application contents and stated that he would facilitate the virtual hearing process.

Present were Engineer David Whitney, of David F. Whitney Consulting Engineers, LLC, and Registered Soil Scientist and biologist Michael Klein, of Davison Environmental, LLC. Mr. Whitney stated that he had submitted the Certificate of Mailing to the neighbors abutting the subject property, as required by the Town's regulations. He highlighted the actions taken by his party since the most recent Inland Wetlands Commission (IWC) meeting when Appl. #767 was last addressed. The actions taken included a professional soils re-delineation, a professional field topographic survey, a redesigned site layout, a finalized septic system design, and a site walk map flagged by a surveyor. A memorandum from John McCahill regarding his comments and requirements regarding the application, dated February 19, 2021, should the application be approved, had been received by Mr. Whitney's team. Mr. Whitney reviewed the plans with the latest revision date of February 9, 2021, for the Commission and public. Those plans included Sheet #1 Map of Existing Site, Sheet #2 Septic System Design, Sheet #3 Soil Data Details, Sheet #4 Site Plan, Sheet #5 Feasible Alternatives, Sheet #6A Construction Sequence Plan, Sheet #7 Comparison of Wetland Delineation, Sheet #8 Wetland Mitigation Plan, Sketch #1 Pre-development Watersheds, and Sketch #2 Post-development Watersheds. Mr. Whitney stated that the site is 4.4 acres and slopes upward from the road. He stated that Wetlands Area #1 is located at the top of the site. Wetlands Area #3 is the location of the intermittent watercourse, and a significant portion of this watercourse would be redirected to the north via a swale and it would flow to a previously constructed drainage headwall. The intermittent watercourse would be directed to continue around the proposed house. He referenced a brook that was located on the

south side of the lot that flowed into a watershed, noted as Wetlands Area #2. Regulated activities were proposed near Wetlands Area #2A, where the bottom of the site meets Oak Bluff. The intermittent watercourse would continue to flow into a culvert under Vermillion Drive and not to the culvert under Oak Bluff. He reviewed the septic system plan proposed for a five-bedroom construction, and stated that the plan had already been approved by the Farmington Valley Health District (FVHD). He reviewed the soils testing conducted on the site, and particularly the new testing in relation to the location for the proposed septic system. He reviewed and explained the features of the site plan, including the following: house, driveway, and two sections of retaining walls. He stated that once the Angelonis chose an architect for the house, it was anticipated that the construction would fit within the rectangular area for the house, as drawn on the Site Plan. He stated that the driveway was proposed to start at Vermillion Drive. The site would be excavated to create a reasonable backyard, and a slope of 2:1. He stated that Wetlands Area #1, along the southern portion and top of the property, and Wetlands Area #2A at the bottom of the site would be included in the revised conservation restriction area. The existing conservation restriction area, of 1.1 acres, was set in place from the previous application approval for the subject property; the new proposed conservation restriction area would increase in size to approximately two acres. He summarized and compared the two previous application approvals for the subject property, and stated that the plans from both of the applications had never been implemented. He stated that the plans had been submitted with the current application for consideration as feasible alternatives. He believed that the plan presented in this application was the best option.

John McCahill stated that the applicant from the 2006 IWC application for this property had filed the conservation restriction on the land records in the Town of Avon Clerk's Office.

Mr. Whitney explained the sequence of events for how development on the lot would occur. He stated that ideally, the redirection of the intermittent watercourse would not occur in the springtime. If the Commission were to approve this application, the Angelonis would not begin construction immediately upon taking ownership of the property. At the time of development, the watercourse would be managed properly first, then excavation of the site would occur. He stated that a new temporary sedimentation basin along the width of the site, above the septic system area would be constructed, while the southern portion of land would be graded. He summarized and explained the wetlands mitigation plan regarding Wetlands Area #2A. Through implementation of a planting plan, a wet meadow would be created.

In response to Chair Thier's question, Michael Klein explained that a wet meadow would include herbaceous plants, wetland trees, and wetland shrubs. The wet meadow would improve the aesthetics without causing adverse impact to the wetlands functions and values, as the functions and values of Wetlands Area #2A were minimal. The plan also included the removal of invasive plant species in Wetlands Areas #2 and #2A. The wet meadow plants would eventually take over and restrict the encroachment of invasive plant species. He stated that the plantings in these areas would also serve to control erosion. A conservation planting mix with native seeds would be installed in the western area of the lot. Maintenance of the dry and wet meadows would not adversely affect the functions and values of the wetland areas.

Mr. Whitney explained the areas surveyed on the Site Walk Map, dated January 16, 2021. He noted that the areas of the proposed house, property lines, and wetlands leading to the brook had been staked and marked with tape for clarification. He explained the following current conditions: water flows parallel to land contours; approximately 20 acres of land, from above the subject site, send water to the brook running through property; the brook flows year-round; the intermittent watercourse flows through Wetlands Area #1, through a small watershed; water from 4.8 acres of land flows to the Vermillion Drive watershed; most of the water from the area above the subject site goes to Wetlands Area #2 and the Oak Bluff culvert. Most of the water from the remaining developed site would end up in the culvert under Vermillion Drive. The watersheds from both pre-development and post-development would be maintained. He stated that the plans had been reviewed by the Town Engineer. A final review of the drainage would be conducted after the Planning and Zoning Commission's review and decision. He stated that the applicant had no issues with the approval conditions, as written in John McCahill's memorandum, dated February 19, 2021.

Chair Thier asked the Board if there were any questions or comments.

In response to Vice-chair Beauchamp's question regarding the appearance of the wet meadow, Mr. Klein stated that the meadow would be dominated by herbaceous plants, grasses, sedges, and wildflowers, as noted on the plan; such diverse plants that would thrive under wetland conditions. The wet meadow soils would have a high saturation level but the wet meadow would not have ponding conditions.

In response to Commissioner Breckinridge's question regarding the maintenance and enforcement of the meadow and the slopes behind the proposed house, Mr. Klein stated that the property owner would be the responsibility for those issues. Mr. Klein referenced the monitoring period, as stated in John McCahill's memorandum, which the Angelonis have accepted.

In response to Commissioner Breckinridge's question regarding the presence of endangered species, Mr. Whitney confirmed that the applicant's team had checked the Natural Diversity Data Base (NDDb) website of the Connecticut Department of Energy and Environmental Protection (CT DEEP) and threatened and endangered species were not identified at the site.

Commissioner Breckinridge inquired about the area on the plan specified for the proposed house, and whether or not the house would remain in that designated area at the time of construction.

John McCahill stated that the area on the plan for the proposed house could be part of an approval condition, if the Commission preferred.

Mr. Whitney responded that the house could not be moved further north due to a planned turnaround area at the toe of the slope. He stated that if the house were moved to the south, it would block the area for the proposed pool at the side of the house. In response to Commissioner Breckinridge's request for Mr. Whitney to define a conservation restriction, Mr. Whitney stated that according to the Town's regulations the conservation restriction prohibits any clear cutting, excluding the cutting of sick or diseased trees and shrubs. The regulations also prohibit the filling and construction of structures in the conservation restriction area.

Commissioner Usich stated that his previous concerns regarding the drainage issues of the intermittent watercourse were settled, and that the drainage would actually seem to improve based upon the planned activities.

Commissioner Dean asked for Mr. Whitney to explain the capture of water from the intermittent watercourse. She also expressed concerns regarding the drainage and any contaminants that would lead to the pond in the neighborhood, below the subject site, at Oak Bluff. Commissioner Dean asked for clarification on the ecological value of the current intermittent stream and whether any benefit would be preserved with the redirection of the stream.

Mr. Whitney responded that the existing intermittent watercourse was approximately three feet wide. The new swale would have riprap on both sides and would be ten feet wide at the intersection of the watercourse. The increased width would slow the water and spread its flow. He stated that the wet meadow would be an area for the water to settle and filter pollutants before arriving at the culvert and at the pond down-stream at Oak Bluff.

Mr. Klein stated that there were no significant values associated with the intermittent stream and that it was a source of sedimentation.

Commissioner Feldman inquired about water runoff and the effects on the downstream area, and expressed concerns regarding the potential development of the lot dominated by wetlands and regulated areas. Mr. Whitney stated that all of the water runoff from the roads in the area likely entered the pond at Oak Bluff. He stated that the entire subject property was a regulated area. The intermittent watercourse was approximately 200 feet from the center of the property. He stated that this watercourse was not a valuable resource. The development activities would not affect the brook in the wetlands area with functions and values at the southern property line. The brook would not receive additional water as a result of the development on the subject site. He stated that Wetlands Area #1 would comprise the wet meadow.

In response to Commissioner Feldman's inquiries regarding the characteristics of the intermittent watercourse, Mr. Klein stated that the watercourse would flow from late winter into early spring, and it would likely flow due to rainfall or snowmelt events during the remainder of the year. The intermittent watercourse was deeply eroded. Due to its intermittent nature, it would not support aquatic life. The areas around the intermittent watercourse were dominated by invasive plant species. He stated that rerouting the intermittent watercourse would not have any adverse effects. He stated that the swale was substantially larger than what would be necessary, and that the area with the most sedimentation was below the area of redirection.

In response to Commissioner Sacks' inquiries, Mr. Whitney stated that the two acres planned for the conservation restriction area were reasonable and were increased in size from the existing area, as filed in the land records. He stated that the conservation restrictions needed to protect the undeveloped areas of the site. The conservation restriction area by the wet meadows would be a ten-foot offset from the wetlands. He stated that there were no plans to bring sewer lines into the neighborhood, and all properties in the neighborhood had septic systems. He stated that the watershed from which water flows down to this subject site is approximately 4.5 acres. He stated

that rain water from two of the empty lots above the subject site would drain to the southerly brook and not to the intermittent watercourse.

In response to Commissioner Dean's question, Mr. Whitney responded that after the first Commission approval for activities on the subject property in 2003, the owner had passed away. After the second application approval in 2006, the owner has been living abroad for approximately ten years and the lot has never been developed.

David Ingram, of 15 Vermillion Drive, expressed his concerns regarding the monitoring, sequencing, and maintenance of the development activities within a required time period.

John McCahill responded that the Town has a history of working closely with all construction parties and would continue to do so. Mr. Whitney confirmed John McCahill's statements.

Commissioner Feldman motioned to close the public hearing. Commissioner Dean seconded the motion. The following members voted unanimously in favor: Chair Thier, Vice-chair Beauchamp, and Commissioners Breckinridge, Usich, Dean, Feldman, and Sacks. The motion carried.

Commissioner Usich motioned to approve Appl. #767, with the comments and approval conditions, standard and recommended, as written in John McCahill's memorandum, dated February 19, 2021.

Commissioner Breckinridge stated that the house construction as proposed in the plans should be in compliance with those submitted.

John McCahill stated that the house and pool constructions would need to substantially comply with the plans approved by the Commission. He stated that at the time of obtaining building permits, zoning and wetlands requirements would still be upheld, and only then would staff execute the building permits.

Commissioner Feldman stated that the entirety of the subject property was regulated and that there were encroachments to wetlands and watercourses throughout the lot. He thought that an approval of the application would not fit the spirit of the regulations.

Commissioner Breckinridge stated that there had been two applications for the subject property which were previously approved. He referenced Mr. Klein's testimony that the intermittent watercourse on the property was not of high value.

Commissioner Dean stated that the spirit of the wetlands regulations was to protect wetlands that have high value and, in this case, the intermittent watercourse to be redirected did not have high value. Other wetlands on the property would be protected, and there would be a conservation restriction greater in size than the existing one. She did not find that there would be harm to the wetlands based upon the proposed activities. She noted that activities were not generally prohibited in an upland review area, but subject to Commission review to determine whether or not there would be harm. She felt the issues had been addressed extensively.

Commissioner Sacks stated that one remedy might be to make the intermittent watercourse more contributory to the area and ground. He believed that the problems involving the intermittent watercourse were the issues. He was uncertain as to the long-term consequences of altering the intermittent watercourse. He was concerned about the removal of some natural elements related to the proposed construction activities, and the future value of the land.

Commissioner Dean seconded Commissioner Usich's motion to approve the application. The following members voted in favor of the motion: Chair Thier, Vice-chair Beauchamp, and Commissioners Breckinridge, Usich, and Dean. The following members voted to deny the motion: Commissioners Feldman and Sacks. The motion to approve the application carried, by 5-2.

COMMUNICATIONS FROM THE PUBLIC:

There was no communication from the public.

OTHER BUSINESS:

There was no other business.

STAFF COMMENTS:

John McCahill announced his retirement from full-time employment with the Town of Avon.

APPROVAL OF MINUTES:

- Minutes - December 1, 2020 – Regular Meeting and Public Hearing Continuation. Commissioner Sacks stated that the word *however* should not be used as a conjunction, and he believed the word should only be capitalized, followed by a comma, and used only at the beginning of a sentence. Vice-chair Beauchamp motioned to approve the minutes and Commissioner Breckinridge seconded the motion. The following members voted unanimously in favor: Chair Thier, Vice-chair Beauchamp, and Commissioners Breckinridge, Usich, Dean, Feldman, and Sacks. The motion carried.

NEXT REGULARLY SCHEDULED MEETING:

The next regularly scheduled meeting will be held on Tuesday, April 6, 2021, at 7:00 p.m., via the virtual GoToMeeting platform.

There being no further business, the meeting adjourned at 9:20 p.m.

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