

THE INLAND WETLANDS COMMISSION OF THE TOWN OF AVON HELD A VIRTUAL REGULAR MEETING ON TUESDAY, March 1, 2022, AT 7:00 P.M., VIA GOTOMEETING: by web, <https://global.gotomeeting.com/join/566187669>; or by phone, United States: [+1 \(571\) 317-3116](tel:+15713173116), Access Code: [566187669#](https://global.gotomeeting.com/join/566187669).

Present were Chair Michael Feldman, Vice-chair Michael Sacks; and Commissioners Robert Breckinridge, Gary Gianini, and CJ Hauss. Also present was Emily Kyle, Planning and Community Development Specialist/Wetlands Agent.

Chair Feldman called the meeting to order at 7:00 p.m. There is a quorum of 5 Commissioners.

I. NEW APPLICATION:

APPL. #776 – Douglas DiVesta, PE, Applicant, Brandon and Chelsea Olson, Owners; request for regulated activities within the 100 foot upland review area: construction of house, driveway, pool and retaining wall and related grading and site work, and construction of storm water management system. Location: 381 Northington Drive, Parcel 4910381.

Douglas DiVesta began the presentation. He is a special engineer representing the Applicants. This parcel was the subject of an approved application, #677, that was done by the Toll Brothers in May, 2016 which was due to expire last year. A new application from Toll Connecticut Limited Partnership came before this Commission in March, 2021, #770, and was approved in May, 2021. Since the Toll Brothers had the property, it was sold to his clients and they have submitted a new application because they are proposing modified work than was approved before. The proposed house footprint is in the same general location but has a slightly different footprint. They are also proposing an in-ground pool, a circular driveway, and a retaining wall to provide a more level backyard. D. DiVesta is proposing subsurface bio retention areas for the impervious areas on the north and south sides of the property. Referring to his map displayed on screen, the lighter green shows the wetlands along the western property line. The 100' upland review area is shown with a red line. Along the border, just a little west and south of the retaining wall is an existing conservation easement. The property is about 1.2 acres in size, sloping from Northington Drive in a southerly direction moderately. It is about a 20' drop from the upper corner of the lot down to the lower portion of the site. The property was cleared at one point and there are saplings in the central portion of the property from regrowth. There are stakes on the property at the end of the retaining wall, at the far ends where the retention areas are, and the two corners of the house. They also refreshed some of the wetlands flags that had fallen down over the years. In terms of best practices, they will provide a silt fence along the north property line, along any of the disturbed areas south of the retaining wall, and up along the southerly property line. They will also provide an anti-tracking pad at the intersection of Northington Drive and the proposed driveway and provide an orange construction fence behind the silt fence to provide proper demarcation so any construction workers will know not to cross to go into the conservation easement area. He designed the storm water bio retention areas to handle the water quality volume which is the first inch of runoff from the impervious areas. The one in the front will also handle some of the lawn area which will drain down to the catch basin which will have a 2' sump and discharge down to a junction box which will also have a 2' sump and open bottom to provide more sediment trapping and then go into the bio retention area. Once

that fills up, it can bubble out at the far end and it would be clean water. It is the same on the south end – this will collect a portion of the roof area and go directly into the bio retention area. Again, when it fills up, it will bubble out and then flow towards the south. They will also provide an anti-tracking pad at the entrance of Northington Drive and the driveway. D. DiVesta introduced Matt Popp, who is the landscape architect who provided the narrative for the property. The comments from staff questioned the quantity of material that's being filled to provide a level backyard. It is around 2100 cubic yards and that will come from the foundation that's being excavated out and also some material imported into the site. When this was approved in May, 2021, there was a condition that the applicant provide a shallow, depressed area to collect the storm water. D. DiVesta feels that the bio retention areas that collect runoff from impervious areas from the driveway on both ends is a much better solution than just a shallow, depressed area. It is an improvement from what was approved last year.

M. Popp introduced himself as a landscape architect and professional wetland scientist with Environmental Land Solutions. He is the environmental consultant that was retained by Toll Brothers last year to prepare the wetland application and the wetland narrative. He revised the report of the wetland areas that was submitted last year and went through what was proposed for existing conditions. The functions that the wetlands provide are groundwater discharge and sediment trapping (if any water flows over the site, the wetlands pick it up and contain it). The plants in the wetlands remove nutrients from storm water runoff. The wetlands also provide production export which means food and habitat for wildlife. There is a trail to the north of this site which runs through wetlands and provides some environmental recreation benefits. The main difference with this plan and 2021 is the retaining wall in the rear yard. Before it was somewhat steep and there was a condition to include a depression along the slope to collect storm water runoff. Now this development is sized appropriately to contain the 1" of runoff. Before it really was not sized appropriately. It does now propose a swimming pool in the backyard which he does not think would have an adverse impact because it is in an area that was going to be maintained as lawn. M. Popp also likes the retaining wall because it is a physical demarcation where the maintained, manicured lawn area will be upslope of the wall. The areas below the wall will be a natural setting and mainly wooded. The wall also lessens the grade in the rear yard which provides a little bit more infiltration – not a great deal but it helps. This project improves the water quality now that there is a drainage system that is sized for the runoff. M. Popp has three conditions in his report: 1) on the north corner of this site (just north of the wall in that area) since the driveway slopes in that area, should be maintained with native plants and not lawn area. Those native plants will filter runoff that washes off the site. The report lists the approximate size and number of plants that would go in there including one shad which is a small elderberry shrub, nine winterberries or bayberries or any native shrub, and fifteen Joe-Pye-Weed which is an herbaceous wildflower. Again, they will filter the runoff from that portion of the site. 2) It is similar on the southern portion of the site. It is a little smaller as it does not have as much runoff. As water washes off over the lawn area, it can flow through a natural vegetated buffer before flowing into the conservation easement and into the wetland area. 3) The last thing is that this plan does not show a fence for the pool. The fence needs to be located on top of the wall or upslope of the wall and not below the wall or down into the conservation easement. M. Popp stated that with those three recommendations, this plan is consistent with the 2021 approval and this plan is actually an improvement over that plan.

R. Breckinridge focused on the pool and asked if it would be a salt water or a chlorine pool. D. DiVesta answered that they had not had that discussion but he thinks it will be a chlorine, fresh water pool. R. Breckinridge asked how it would be drained in the fall. D. DiVesta answered that they would most likely allow the chlorine to totally evaporate or dissipate and then either pump it up to the catch basin in the street, or allow it to sheet flow off the lawn, or even put it into the catch basin and allow it to go into the detention area. He is not a pool expert but he believes it would only be lowered by about a foot or two. R. Breckinridge asked if the property would be hooked up to sewers. D. DiVesta answered that the property would, but the pool would not be. R. Breckinridge would like input from the expert as to pouring water going down into the wetlands. M. Popp answered that you would not be putting chlorine into the pool in the fall right before you discharged and lowered the water elevation. The water level would be lowered probably 6" at most to maintain the pool over the winter months. M. Popp does not think there would be an impact from chlorine in the pool as there would be no reason to chlorinate right before the wintertime. R. Breckinridge asked E. Kyle about this. She agrees with D. DiVesta and M. Popp that going into the bio retention system and not the sewer system is an improvement. Also, she agrees that you would not be chlorinating in that time of year. R. Breckinridge asked if the pool would be heated. D. DiVesta does not have those details but assumes it will be. R. Breckinridge commented that that would allow the pool to stay open longer. R. Breckinridge has some concern about where that chlorination will settle as no one will be monitoring that. He does not know how much water will be emptied from the pool every year and it is very close to the wetlands. He does know that chlorinated water can have an effect on wetlands but he does not know the volume. M. Popp answered that the water would probably be lowered about 6" below the tile. He believes it would be lowered by pumping into the catch basin by the driveway and letting it go into the infiltrator. R. Breckinridge asked if this could be a condition to this approval. E. Kyle suggested that what they are proposing would be a condition to approval because we would like to make sure that is where it is going instead of straight out. R. Breckinridge stated that was his biggest concern on this proposal. He also wants to ensure that the conditions on the previous approval from May 6 except for the rain garden would be part of this approval. E. Kyle commented that she added suggested conditions from the perspective of staff, all of which incorporate the best management practices suggested by the professionals, and also the conditions from previous approvals. Based on the explanation of the retention system being a better solution, she would remove the condition previously proposed to require the rain garden. M. Popp stated that the previous approval had a condition of the orange construction fence in the back but the retaining wall would be one of the first things constructed so he does not believe the construction fence would be needed anymore. D. DiVesta would leave it there at least at the beginning so the people constructing the wall will know the demarcation.

Vice Chair Sacks commented that the pool water is lowered when the pool is overfilled from rainfall so periodically water is drained out of the pool. This water is highly chlorinated water and would be going into the catch basins as well. At a time when there is a lot of flow of water into the catch basin from rainfall, he would like to know if it is possible it would be pouring into the wetlands once the drainage area fills up. D. DiVesta agreed that it was possible. Usually it is about 4-6" from the coping to the water level so you would need fairly significant rainfall to fill it up. The likelihood of that happening is very minimal but it can get pumped up into the catch basins and into our system and allowed to go into the bio retention area which handles the 1" of runoff so there is capacity in there for that. D. DiVesta thinks these are good questions but he

cannot anticipate every storm coming through here. M. Popp thinks if we have a 4" rainstorm, the pool water would be highly diluted. He would be more concerned about discharging pool water during a drought condition, when the water is more concentrated. With regard to the 8-10' retaining wall, Vice Chair Sacks asked how deep you would have to dig into the ground to construct that wall. D. Divesta believes you'd only have to go in on the back side. It is a designed wall done by a structural engineer - you'd probably have to go down about 42" and the back side might even be less. That part of the project has not been designed yet. Vice Chair Sacks noticed that there are extensive trees in the conservation area so he presumes that when you're digging down, you are cutting through a considerable amount of roots of those trees. D. DiVesta said that some trees might have to be trimmed, then you'd dig and trim off versus just ripping through them. They could air spade around them and just trim so there would be less damage and then provide some kind of nutrients to them. Some care would have to be taken around the root structures. Vice Chair Sacks reiterated that these are roots that extend considerably into the area where the saplings are and up into the rocks and out that will now be cut off. So we know there will be damage to roots that extend well into the area that's outside of the wetlands and up the slope (the buffer zone). Those roots would have extended quite a distance. M. Popp agrees and mentioned that in the past application the back yard was filled so those roots would have been covered over. He thinks in a situation like this maybe there could be an additional condition like 2-3 additional red maples to be proposed within the conservation easement area and they would be field located. Vice Chair Sacks asked about the importance of the area where the saplings are and where the tree roots went under and the function of a buffer zone in serving to sustain the wetlands in the water that comes down and filters the nutrients, and in the leaves that fall and the rotting trees that are there. All that is now going to be replaced with a wall that is going to go down into the ground 36-42". We are also going to fill the land above it and we are going to eliminate all the trees and the growth that is there. Vice Chair Sacks asked if that would influence the flow of water that is sustaining the wetlands. M. Popp stated that the past application had the same amount of clearing of the saplings (basically where the retaining wall is) and had the same edge of disturbance from the last plan. Vice Chair Sacks is concerned with what might happen with the wetlands with the proposal the Commission has before it which is what he has to consider – the considerable transformation of the entire upland area of the wetlands by altering it in a very substantial way with fill and eliminating the roots, the trees and the saplings. He is concerned about what the effect will have on the water that flows into the wetlands and the nutrients that are there. M. Popp replied that the flow will be to the north and to the south so there is no water flowing directly over the wall. It will flow towards the north where they are proposing the native plantings and the storm water is being picked up and being retained or detained within those underground galleries which he believes will enhance the water quality more than what was proposed before. Vice Chair Sacks stated that there is a great deal of concern having this large amount of area that can no longer absorb the water. He thinks that M. Popp has done a good job of figuring out where that water will go and where to divert it so it drains in a way that doesn't flush out these areas. Vice Chair Sacks is now talking about a different flow – the feeding of the wetlands from the water that comes down and the importance of the nutrients that come from that and the reverse, that the species of salamanders, frogs, and other animals that have been using the area that is upland from the wetlands is now completely eliminated as a zone where they might be. Vice Chair Sacks continued that we have eliminated all the problem of the drainage from the driveway which is extensive but he is talking about sustaining what was feeding the wetlands and what was there for those in the wetlands to feed

off. D. DiVesta answered that we still have the area from below the retaining wall (south of the retaining wall) that is all natural buffer that will sustain any nutrients and feed the wildlife with any kind of runoff that goes through there. We are not up against the wetlands area as we do have a buffer area between the wall and the actual wetlands that will bring in the nutrients and the water for the wetlands. It is not as much as it was previously but there is still some water going in that direction. Vice Chair Sacks asked about recreational use, as the report says that wetlands provide outdoor opportunities such as nature, photography, hiking, wildlife observation, and fishing as valuable recreational purposes. Currently you are looking up at this area where the conservation easement is, you have trees filled with birds and a quiet area undisturbed by noise, but now they're going to look at an 8-10' wall with a fence above it and a swimming pool. He questions how much this will change the recreational uses – he believes that it is a substantial change. Vice Chair Sacks moved on to the swimming pool. He noticed on his site visit that there are very large trees in the conservation easement and the canopy of those trees would be reaching out in great proximity to the swimming pool. If you have a tree leaning over the swimming pool and the leaves come down and blow into the swimming pool, he believes that it would be a considerable concern to someone building in that location, and presumably they're not going to want that tree there. Vice Chair Sacks asked if it was the impression of others that the canopy of the trees reach very close proximity to the swimming pool. D. DiVesta answered that he did not know. M. Popp believes that the trees do reach over the conservation easement area and go towards the rear yard and Vice Chair Sacks' statement is correct. Vice Chair Sacks is concerned that the temptation is going to be to want to cut down the trees. Also, he thinks that putting a swimming pool in very close proximity to wetlands, an easement, and a water area, would mean that you have a very high level of insects and bugs. His concern is how to get a homeowner not to resort to the use of heavy insecticides that would be damaging to the wetlands. M. Popp replied that that would be the case if there was a wetland there or not which Vice Chair Sacks agreed with. M. Popp continued that in the summertime mosquitoes are everywhere so it is not really a wetland issue. Vice Chair Sacks thinks that that close to the wetlands, there is more concentration of insects and more potential for a problem. Because we are also changing the noise and the potential shade, he is concerned with how that might also increase the level of evaporation of water that could normally be flowing into the wetland. Vice Chair Sacks commented that when he was on site he found standing water in the conservation easement. In one area with a very large split tree, between the split was approximately 6" of water. In another area where the leaves were, there was water that was clearly puddled. He asked what was done recently to test the boundaries of the wetland for example, has anyone taken plugs of soil to see if the wetlands are still at the same boundaries that were determined previously. M. Popp explained that Connecticut wetlands are defined by soils mainly because they are stable – they are not based on vegetation which could change quickly. He would not be surprised that walking this site in the wintertime, you would find ponding water within an upland area. If you went again in the summertime, it would probably be bone dry. Standing water is not an indication of a wetland area. Vice Chair Sacks thinks we need to re-examine the wetlands line and a soil scientist would be important here. He believes that the wetland boundaries may not be quite correctly taken into consideration. The construction looks like it's very close to the wetlands - the proposed wall is 23' to the wetland at its closest point. Vice Chair Sacks said if the wetland extends more like 4-5' in, then you may be building within less than 20 feet of the wetland. So the exact boundaries of the wetlands become very important given the very close proximity of the wall to the wetlands. He believes we need a soil scientist to determine that. D. DiVesta said

that the soils were done when the subdivision was approved, when the Toll Brothers did it, and wetlands are not going to change that quickly. It takes multiple, multiple years – decades – to change the line and he believes the wetlands line is probably accurate. The ground could be frozen or saturated but a change in a wetlands line is not going to occur in a few years and M. Popp added that ground water is at its highest right around now.

G. Gianini had no questions. C. Hauss had no questions. Chair Feldman asked that given some of the concerns that we've heard from M. Sacks and R. Breckinridge about the potential effects on the wetlands from possible chlorinated water there, the temptation of removing trees, the use of pesticides, would it be a feasible and prudent approach to take the improvements – the driveway, house and pool – and move them closer to Northington Drive and further away from the wetlands. D. DiVesta indicated that they would only be able to move it up a couple of feet because of the front yard setback according to zoning regulations. E. Kyle indicated that this was brought up in last year's approval but because this is a collector road, the front yard setback is 60'. For zoning the house could only move up a couple of feet and that would not drastically change much. D. DiVesta stated that his clients actually wanted a larger pool but he pushed back on it and made it a much smaller pool. It is probably the smallest pool they can fit there – about 16' x 36'-38'. M. Popp commented that maybe another option would be to just move the pool 2' closer to the house. D. DiVesta said his clients have small children so they wanted to keep the pool a little bit further from the house v. just walking right out from the covered porch or the kitchen and right into the pool.

Chair Feldman asked E. Kyle if 60' setback is standard for this community and if there was any way to adjust that. E. Kyle described collector and arterial streets. A variance is the method to request a change to zoning requirements. D. DiVesta commented that a variance would be difficult to grant as it is new construction. E. Kyle stated that the Zoning Board of Appeals may look at the wetlands as a hardship but at the same time, moving the house all the way to the front – she does not know if they could justify that especially with the other houses in the area being far back. Chair Feldman asked M. Popp about his report on the third page at the bottom where he proposes underground storm water galleries in lieu of a rain garden. Chair Feldman understands that the rain garden was part of the original approval but is unfamiliar with the term underground storm water galleries and asked if that is what referred to as the recharger. D. DiVesta confirmed that it was. Chair Feldman asked for an explanation of that. D. DiVesta showed a diagram on the screen and stated that typically he would use what is called a cold tech plastic hollow chamber. He said to think of it as a pipe cut in half with stone around it, underneath it, and around the side of it so water will come into it and then just infiltrate out through the holes or slots in the unit itself and at the bottom. The bottom is open so it will infiltrate out as it fills up – it will go out through the sides. So it is just a hollow chamber and it could be different materials but these are plastic chambers. Chair Feldman asked what kind of maintenance is required for this. D. DiVesta said very little because he has a catch basin that is on the driveway with a 2' sump on it and with a hood on the outlet end of the pipe. The hood has a 90 degree bend on the 6" pipe that goes out and will collect any floatables like leaves, sticks and items like that. It will keep it from going out into the system. A 2' sump provides some settling of any debris, sands and ambient material like that on the driveway. Then it goes down to a junction box which is a 24" diameter corrugated plastic pipe that stands vertically in a stone base that is open. The water will flow into that and the bottom is open with a 2' sump so that will allow for a second set of settling area and will also

allow some infiltration in that area as well. So you have two sources of capturing any sediment before that gets out into the chambers themselves. M. Popp reiterated that those galleries are providing a similar function as the rain garden. The difference is that this is actually sized for the development whereas before we just came up with a dimension and the location of it. D. DiVesta said that this is common practice to use a hollow chamber to collect water, for detention, or for a bio retention area like here, and he uses these all the time in site development plans that he does for residential and even commercial sites. Chair Feldman asked what the pros and cons are for using this approach v. the rain garden. M. Popp said it is more money to install this but the pros are that you do not have to worry about the homeowner maintaining the rain garden. The new approach is underground – out of site. This is engineered and designed for this site development whereas the rain garden was not. We do also have these proposed plantings just upslope of those areas. So if there is any sheet flow in those areas, it will be directed towards those galleries, so that the storm water runoff will be filtered again before going into the conservation easement and into the wetland area. Chair Feldman then asked based on the concerns raised tonight, should there be some additional conditions that might be included to address those concerns. M. Popp thinks the one condition that was talked about, is if the pool is going to be drained at all, that it would be discharged into the catch basin in the driveway, though even if it wasn't drained that way and it just sheet flowed over the rear yard, it would still flow over quite some distance and most likely to the north and through the filter of the plantings that we are proposing. M. Popp commented that the house is right up against the setback with the porch so we cannot move the house a foot or two. D. DiVesta agreed that that would not help them that much. Chair Feldman did not see any point in imposing extra engineering costs to move it one foot if it will not make a difference. M. Popp said that you could put the proposed plantings in the north and the south and have a demarcation around those plantings so the homeowner knows that there is not to be lawn in those areas.

C. Hauss asked if not for the pool, would there still be a need for the retaining wall? The pool is concerning for her and for other Commissioners. D. DiVesta answered that he thought you'd still need a retaining wall because he'd want a bit of a level backyard. If the pool wasn't there, it would still slope off and that would not be a suitable area for the family for recreational purposes. There's not a lot of room in the backyard so he thinks that by putting a pool back there in a flat area, that is a good use for that area and it provides some kind of a level area for the family for recreation and play. Chair Feldman also asked if with or without a pool, they would need a retaining wall. D. DiVesta confirmed that you would. M. Popp said that if the retaining wall was not planned, he believes that within a year or so, the homeowner would come before you proposing a retaining wall. Again, it was a sloping rear yard and this provides a useful, still small, but very useful rear yard. D. DiVesta added that earlier M. Popp had a good point which is that the retaining wall becomes a demarcation line as well. If we did not have any kind of retaining wall sloped up, you would get a lot of lawn creep towards the conservation easement and then into potentially into the wetlands. By putting this wall up it becomes more of a demarcation line to keep any activities outside that conservation easement. M. Popp likes the wall because if there are any salamanders and frogs, the retaining wall provides kind of a buffer for them, or a demarcation for them from going into the rear yard. M. Sacks asked if they needed that area in order to survive, to be able to move into zones outside of the area of the wetlands, to be able to move out and then move back in the course of the year. M. Popp replied that he did not see any vernal pool after walking that site some distance, probably 200 feet, so that just

making a statement that there are salamanders and frogs back there that need this upland area, is not accurate. There probably are red backed salamanders there but they're not like the spotted salamander that travels hundreds of feet. The red backed salamander is not really a wetlands dependent species. Again, M. Popp thinks that having walls is usually a good thing to protect wildlife from them entering an area that's being maintained.

R. Breckinridge asked what exactly is around the pool. He noticed that it looks like the lawn comes right up to the pool but he assumes that there will be some type of cement decking around it. D. DiVesta replied that some pools do and some don't but that is something he has not discussed with his clients. R. Breckinridge stated that the problem is that from what he can measure, there is 10' feet from the western edge of the pool to the retaining wall and if you put a 5' concrete deck around it, then any runoff water gets really close to the retaining wall. He asked if there is the possibility that you could grade around the pool that would catch any water that gets outside the pool and then run it with a pipe down to those areas that you're filtering the water. M. Popp answered that if there was going to be a small patio, there could be a catch basin that would collect that water and direct it towards the underground infiltrators or it would be sheet flowed towards the north where it would travel over a long distance – towards the lawn area into the proposed plantings before entering the wetland buffer. R. Breckinridge has seen pools designed with what looks like metal grading around the edge of the pool. D. DiVesta said that that is a channel drain and he has done that. R. Breckinridge continued that the water that goes outside the pool goes into that channel drain and it - usually with piping and gravity – is drawn away to a different area of the property. D. DiVesta stated that if it was a condition that the Commission wanted, they could provide the information to the staff and E. Kyle could approve it. R. Breckinridge continued that at least you'd get that water away from the retaining wall and into these areas where you plan to filtrate the water a little bit. He feels that we need a pool specialist to advise the Commission because we do not know what the volume or what the effects on the wetlands would be. The pool is really close compared to other approvals the Commission has done. M. Popp said that you could have a condition that the height of the retaining wall is above the height of the elevation where the pool is so the water cannot flow over the wall. It would travel north where the grading is. R. Breckinridge asked whether the water could seep through the ground and get around the retaining wall. M. Popp said that if it seeped into the ground it would be a good thing because it would filtrate. D. DiVesta said that the pool is between 38-40' from the actual wetlands themselves. R. Breckinridge stated that it would alleviate his concerns if they had some way to drain the water – if there is a concrete deck around the pool, we know that the water will not seep through the concrete, it's going to wash off the concrete into the lawn and we don't know where it goes. M. Popp said that you could have a condition that any patio area has to have the storm water collected and infiltrated into the ground.

Chair Feldman asked if the retaining wall is permeable and the water can flow through there or maybe provide its own filter. M. Popp said there will be some type of weep holes maybe 6" or 8" in the center at the bottom of the wall. D. DiVesta confirmed that there will be some infiltration and there will be some kind of weep holes at the bottom of the wall for hydrostatic pressure. So any water that does filter down through that will get treated and cleaned up before it goes out into the buffer area.

E. Kyle said that one of her main questions was addressed by R. Breckinridge – is there a patio? It seemed inevitable that there would be a patio surrounding and it would be closer to the wetlands. She does agree with M. Popp and D. DiVesta that the physical barrier of the wall will likely deter people – future homeowners – from cutting vegetation in the conservation easement. That is very difficult to enforce so it is a layer of protection physically deterring people from removing vegetation in that area. She looked at both applications and she could see, if not these buyers, then future buyers, would probably come back to the Commission for a retaining wall application – a modification to the previous approval – to make the backyard more functional. She is not surprised that we have this application but the Commission has valuable points. If this Commission chooses to move favorably, she thinks that we would need to really spell out the exact conditions that we are hoping for and make sure that we are very thorough. She would like to get some consensus among the Commission. Chair Feldman agrees and would like to get some consensus from the Commission whether it makes sense to have the Applicant work with E. Kyle in fine tuning some of these conditions, tabling the application until next month so that we can see them in writing, and then the Commission can take it under consideration. D. DiVesta confirmed that he can work with E. Kyle on that and come up with a list of conditions.

R. Breckinridge would like to see on the site plan exactly what is going to be around the pool. He does not want that open ended. Because of the pool's location, the design should be in the plans that are approved so there is no uncertainty. M. Popp indicated that they could definitely add a small patio and luckily it could go between the house and the pool, on the sunny side of the pool. D. DiVesta stated that it sounded like the Commission was going to keep this Application open another month so he can revise the plan accordingly so this does not have to become a condition of approval. E. Kyle can look at it and send it out to the Commission members, and then at the next meeting, the Commission can make any comments at that point. Chair Feldman agreed that that was a good plan.

Vice Chair Sacks would like to have some evaluation by a soil scientist of the boundaries of the wetlands. He is also concerned that the entire plan is extremely destructive to the upland area above the wetlands. There is a likelihood of the use of insecticides to protect this area. It is very close to a swimming pool and a residential area. The large trees are extremely valuable for what they do and how they sustain the area and they are going to be something very inimical to having a swimming pool with the leaves falling into it. The upland area now has sapling trees that were filled with birds and they were in an area that could be used by wildlife. This is also an area where there were leaves falling and becoming nutrients in the soil. This is the kind of buffering area that we need to protect. The nature of this project is very much destructive to it when you are digging into the ground and compacting the ground all around the area that you have to build a retaining wall, and the diversion of the natural flow of water that is going through this wetland. Vice Chair Sacks' concerns go well beyond what you would do around a swimming pool.

Chair Feldman indicated that the Commission would see D. DiVesta and M. Popp at the next meeting and hopefully a lot of the concerns raised tonight can be addressed then. Chair Feldman asked for a Motion to Table Application #776 to the next meeting to give the Applicant an opportunity to address some of the concerns of the Commission. R. Breckinridge made a Motion to Continue the Application. G. Gianini seconded the Motion. The Motion passed unanimously.

II. COMMUNICATIONS FROM THE PUBLIC: None.

III. STAFF AND COMMISSIONER COMMENTS:

E. Kyle has two points to raise tonight. The first is about an opportunity where our Town Attorney, Kari Olson, is offering to give legal training to the Commission. They actually just did this with the Planning and Zoning Commission last week and it was very well received. This would be wetlands specific, and valuable to both new and veteran members. E. Kyle thinks that it would be extremely valuable for full attendance. She needs a couple of dates because this would be a special meeting, not part of our regular meetings as it would be too cumbersome with our regular agenda. She would like to give the Town Attorney three options – it would be a 7:00p meeting. After discussion, the dates of March 22, 23, and 29 were chosen. E. Kyle will bring that to the Town Attorney and let the Commission know. We will get an Agenda the same way we would usually with a link for a GoToMeeting virtual Special Meeting.

The second item is that the Connecticut Association of Wetland Scientists is having a virtual meeting, a training opportunity as well. The Town has money in the budget to fund attendance. It is Wednesday, March 9, from 9:00am to noon. E. Kyle has attended them annually in person and they are always very valuable. Vice Chair Sacks asked if this would be available afterwards to view. E. Kyle replied that we will reach out to CAWS to find out.

Vice Chair Sacks stated that for the last meeting and again this time, the Commission is getting someone submitting material less than seven days before the meeting. Last time, he did not have time to look at what was given so he looked at it afterwards and saw that he would have evaluated it differently. He is concerned about how we routinely handle things that are handed in late and he feels that we should not be so accepting of this as the Commission needs time to look at it. Chair Feldman asked E. Kyle about the regulation that requires that the materials be submitted a certain number of days before the meeting. E. Kyle answered that we require all our information seven days before the meeting. The issue is that we received all of their application materials in the correct timeframe to get on the Agenda and then we receive modifications. It is overwhelming to get modifications or additional information right up until the meeting day. R. Breckinridge asked if the Application mentioned that cutoff time. He continued that in the past we did not take it as it is clearly stated on the Application that there is a cutoff date. E. Kyle stated that we received the Application on time, it was just the supplemental narrative that was late. R. Breckinridge thought the Application states that they can't present supplemental information after the cutoff date. J. Stokesbury indicated that it is on top of the Checklist form and says that revised plans must be submitted seven days prior to the meeting. R. Breckinridge thinks we should enforce that – he does not like having to review something the night before as you cannot always do that and sometimes these revisions are fairly lengthy. We should follow the rules and not allow people to circumvent that. Other Commissioners agreed. E. Kyle indicated it was helpful to her and she appreciates the conversation.

IV. APPROVAL OF MINUTES:

Chair Feldman asked if there was a motion to approve the minutes of February 1, 2022. Vice Chair Sacks made a motion to approve the minutes. C. Hauss seconded the motion. The minutes were approved unanimously.

V. NEXT REGULARLY SCHEDULED MEETING:

The next regularly scheduled meeting is Tuesday, April 5, 2022.

G. Gianini made a motion to adjourn. C. Hauss voted to second the motion. The motion passed unanimously.

There being no further business, the meeting adjourned at 8:20 p.m.

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