

STAFF REPORT

**AGENDA ITEM 1
JUNE 15, 2023 MEETING**

To: Conservation Commission/**Inland Wetlands and Watercourses Agency**

Date: June 9, 2023

**Re: IWWA Permit Application: Single Family House and Fill in Wetlands
119 Ledgewood Drive**

Review Documents:

Engineering Department Review, March 31, 2023

Soil Scientist Report, May 30, 2023

April 13, 2023 CC/IWWA Meeting Minutes

Proposal

The applicant seeks a permit for the construction of a single family residence on an existing lot and permit after-the-fact for deposit of fill in a wetland, located within an existing conservation easement area.

Review

Site Description

The parcel totals .79 acres in the Residence AA Zone. The Agency issued a permit for construction of a single family residence in 1996. The lot remained undeveloped and the permit expired. The Agency issued a new permit in 2002 for the same plan and renewed the permit for an additional two years in 2007. The permit is now expired.

The property is encumbered by a conservation easement, the agreement was filed on the land records in 2007. The conservation easement envelops the wetland and watercourse, covering the northern portion of the parcel. The conservation easement is shown on the site plan, and is not viewable on the town gis system.

The proposed house location is depicted to be within eight feet to the existing conservation easement area.

The 2002 approved site plan with agency motions and staff reports are included in this packet for the Agency's review.

At the April 13, 2023 meeting the Agency requested a wetlands assessment be conducted to evaluate the fill in the wetlands, with impacts of leaving the fill versus removing the fill. The soil scientist report, dated May 30, 2023, was received on June 8, and is attached.

Changes Since 2002 IWWA Permit Approval and 2007 Permit Renewal
Fill in Wetland

The applicant's engineer reports that a portion of the wetland area contained within the conservation easement has been filled. The application narrative states the depth of fill between six inches to two feet. The applicant's soil scientist provided a report on the site conditions using the 2006 soil delineation as a reference.

Encroachment into Conservation Easement Area

A portion of the conservation easement has been encroached upon with removal of vegetation, deposit of fill and the establishment and maintenance of lawn. The site plan locates the filled area and not the cleared/lawn encroachment. The area of lawn encroachment is not calculated in the application material. The deposit of fill within the conservation easement is listed as a prohibition in the easement document, and the filling of a wetland requires a permit from the Agency. The proposed development plan is silent on the restoration of portion of the encroached conservation easement maintained as lawn.

Placards identifying the boundary of the conservation easement were not observed in the field on April 4, 2023. The proposal does not identify where placards are to be installed.

State-Listed Species

The property is *not* identified as an area of interest in the December 2022 edition of the Natural Diversity Database. No further action is required.

Water Quality and Drainage

The 2002 IWWA permit required a caveat be placed on the land records identifying this lot will be wet due to high seasonal ground water. The proposed plan does not contain information of the impact of fill upon the wetland area and associated site drainage.

Application Time Frame

Date of Receipt: March 16, 2023

The applicant has voluntarily extended the Mandatory Action Date to the July 13, 2023 meeting. The Agency must take action before or on July 13, 2023.

Town GIS 2022 aerial view: 107 Stonepost Rd (left) owns the lot at 119 Ledgewood Dr.



Town of Glastonbury GIS



83 0 42 83 Feet

NAD_1983_StatePlane_Connecticut_FIPS_0600_Feet
© Town of Glastonbury GIS

This map is a user generated static output from an Internet mapping site and is for reference only. Property boundaries and other data layers that appear on this map may or may not be accurate, current, or otherwise reliable. The Town of Glastonbury and the mapping companies assume no legal responsibility for the information contained in this data.

THIS MAP DOES NOT REPRESENT A LEGAL BOUNDARY DETERMINATION.

Photo 1, April 4, 2023: Looking west from Ledgewood Drive. Two of the three stakes identifying the southern boundary of the conservation easement, with encroachment of lawn. 107 Stonepost Rd (parcel owner) in background.



Photo 2, April 4, 2023: Edge of conservation easement marked by labeled stake.



Photo 3, April 4, 2023: Area of fill in wetland area. Invasive garlic mustard sprouting (foreground).



Photo 4, April 4, 2023: Watercourse flowing from under Ledgewood Dr into conservation easement.



March 31, 2023

MEMORANDUM

To: Suzanne Simone, Environmental Planner
Conservation Commission

From: Daniel A. Pennington, Town Engineer / Director of Physical Services



Re: 119 LedgeWood Drive

The Engineering Division has reviewed the plan for the proposed residence on property located at 119 LedgeWood Drive prepared by Megson, Heagle, and Friend Civil Engineers and Land Surveyors, LLC, last revised March 10, 2023 and offers the following comments:

1. The separation between the proposed residence and the existing conservation easement of 6 to 8 feet may not be realistic when considering that foundation plantings and a walkway to the front door would typically be constructed as part of the new residence. Sign posts and placards delineating the conservation easement limit boundary would be located very close to the front door of the house if constructed as proposed.
2. The proposed footing drain should have a backflow preventer to reduce possibility of surcharge from watercourse flooding.



NEW ENGLAND ENVIRONMENTAL SERVICES

Wetland Consulting Specialists Since 1983

May 30, 2023

Mr. Jonathan Sczurek, P.E.
Megson, Heagle & Friend
81 Rankin Road
Glastonbury, CT 06033

Re: 119 Ledgewood Drive
Glastonbury, Connecticut

Dear Mr. Sczurek:

On May 8, 2023, I reviewed the wetlands at 119 Ledgewood Drive in Glastonbury. Approximately two-thirds of the filled wetland is presently a mowed lawn. The vegetation growing in the remainder of the filled wetland is Blackberry, Morrow's Honeysuckle, Fox Grape, Sumac, Mugwort, Garlic Mustard, Goldenrod, and Russian Autumn Olive. The Morrow's Honeysuckle, Mugwort, Garlic Mustard, and Russian Autumn Olive are exotic invasive plants.

The plant species growing in the undisturbed area includes Red Maple, Arrowweed, Sensitive Fern, Multiflora Rose, Cinnamon Fern, Skunk Cabbage, Fox Grape, Jewelweed, Silky Dogwood, and sedges. A 2 to 3 foot-wide intermittent watercourse occurs in the wetland. The filled wetland area is fully vegetated with no erosion.

I recommend the following:

1. Eradicate the Russian Autumn Olive and Morrow's Honeysuckle by cutting the plant 6-inches above the ground surface and brush concentrated glyphosate on the cut stump.
2. Plant the following native shrubs at the edge of the wetland. The shrubs have a high wildlife food value:

<u>Scientific Name</u>	<u>Common Name</u>	<u>Quantity</u>	<u>Height</u>
<i>Amelanchier canadensis</i>	Shadblow	4	4-6'
<i>Cornus racemosa</i>	Gray Dogwood	4	4-6'
<i>Cornus sericea</i>	Red-Osier Dogwood	4	4-6'

If you have any questions, feel free to contact me.

Respectively Submitted,
New England Environmental Services

R. Richard Snarski

R. Richard Snarski
Professional Wetland Scientist #1391
Registered Professional Soil Scientist
Consulting Botanist

RRS/srh

2. Best management practices will be utilized, in accordance with local and state laws and policies, for the removal of pesticide laden soils in the areas identified in the above referenced application material.
3. The permit is valid for 5 years from date of issuance, and shall expire on April 13, 2028.

Result: Motion passes unanimously. (5-0-0)

2. Application of Amer & Carrie Skopic for an inland wetlands and watercourses permit to allow for single-family house construction within the upland review area at 119 Ledgewood – Residence AA Zone

Mr. Jonathan Sczurek, Project Engineer, stated that he would be representing the homeowners. Mr. Kaputa said that Ms. Simone sent out an email earlier today regarding the previous property owners who came before the Commission in 2012. Ms. Simone recapped the violations of the conservation easement in 2012. Mr. Kaputa asked for clarification as to why two different conservation easements show up in the documentation. He asked which is the correct one. Ms. Simone replied that both appear to be correct. She explained that the area highlighted in orange is the removed easement area and the area highlighted in blue is the newly created conservation easement area. The Commission discussed the violations discovered in 2012, and there were long discussions regarding swapping of easements and creating a drainage easement. Several Commissioners said that they do not remember all of the details. Ms. Simone said that she will get more information. Mr. Sczurek remarked that this is the first time he is hearing about this and asked Ms. Simone to forward the information. Ms. Simone explained that the previous owners at 107 Stonepost wanted to put in a curtain drain system and reiterated that the highlighted area in orange is no longer the conservation area and the area in blue is the conservation easement. Ms. Simone will email the document to Mr. Sczurek.

Mr. Sczurek stated that the site is located at 119 Ledgewood Drive in Residence AA Zone. He said that the owners live at the abutting property, 107 Stonepost Road. Mr. Sczurek added that the applicants purchased both parcels in 2014. He explained that the plans were approved in 2002 and renewed in 2007. The wetland is in the northern portion of the site. The house is in a southerly position on the lot. The site plans include on-site well and public sanitary sewer. Mr. Sczurek explained that a change on the plans is the location of the sanitary sewer lateral which is located in the middle of the lot. The location of the well was changed to the back to meet the health code distance requirement. Approximately 2,050 square feet of lawn area was put into the conservation easement and approximately 2,660 square feet of fill area was placed into the wetland area. Mr. Sczurek explained that the activity occurred in 2008 and added that the area was cleared, graded and lawn was established. He reiterated that 2,050 square feet of lawn area is in the conservation easement and 2,660 square feet of fill is in the wetland area. He said that he is here to discuss how to move forward and added that he is open to ideas. Mr. Sczurek added that he wants to make sure that the plans depicted are regarding the correct conservation easement. Ms. Simone said that she emailed the information to Mr. Sczurek.

Mr. Kaputa said that the first concern is the ongoing violation of the conservation easement that has been mowed continuously by the previous owner and the current owner. Mr. Sczurek said that the current owners asked him to stake the conservation easement area. He explained that the pins are still there, as well as the stakes, and they were informed of the conservation area by Dick Megson. Mr. Kaputa asked how deep they had to dig down to locate the pins and asked about the fill. Mr. Sczurek

explained that, up near the road, there was approximately 2 feet of material, a foot of material in the middle, and then tapering off to 6 inches. Mr. Kaputa stated that the previous owners came before the Commission and were supposed to put in restorative plantings. The Chairman added that the plantings were not put in and the area continued to be cut. He asked the Commission to discuss how to convert the lawn area back to an easement. Mr. Kaputa also noted that the proposed house location is near the conservation easement and the wetlands. He explained that he was on site and observed healthy wetlands, some invasives, and added that the brook appeared to be healthy. Mr. Sczurek said a solution might be a split-rail fence and added that it is aesthetically pleasing and would provide a boundary.

Mr. Temple wanted to confirm if the building design is approved or lapsed. Mr. Sczurek said that it lapsed in 2009. Mr. Temple agrees with Mr. Pennington's assessment that the proposed house is too close to the wetlands. He suggested for the house to be moved away from the wetlands and added that they may have to plan for a smaller house. Mr. Temple added that the sanitary sewer has to be placed at least 75 feet away from the well. Mr. Sczurek explained that moving the house away from the wetlands would require a variance to the rear yard setback which is granted by the Zoning Board of Appeals (ZBA). Mr. Temple reiterated that the lapsed plans are too close to the wetlands and noted that they have a difficult lot which provides the applicant an opportunity to request a variance from the ZBA. Ms. McClain agreed. Mr. Sczurek said that they can look into a possible boundary line adjustment between the two lots. He explained that moving the boundary line by 20 feet might provide more room. Mr. Temple agreed with that suggestion. Mr. Sczurek said that they will look into other options as well.

Ms. Simone noted that the application was received on March 16, 2023. She added that the deadline for the mandatory action date would be the May 11, 2023 regular meeting. Ms. Simone explained that the applicants can request an extension of 65 days or the applicants can decide to withdraw the application and come back with updated design plans. Mr. Sczurek said that he will need to discuss this with the applicant first and added that he would like an extension. He asked if the 65-day extension starts on May 11th. Ms. Simone stated that it would begin from May 20th. Mr. Sczurek remarked that they have a couple of months. Mr. Temple asked Ms. Simone if she would write a letter to the ZBA outlining the rationale behind the variance request, wetlands proximity, correcting the violations in the easement, and other considerations. Ms. Simone agreed to write the letter and added that the ZBA evaluates hardships. She stated that this property likely meets the hardship criteria. Mr. Temple explained that the Commission is not trying to make the lot unbuildable, and instead is trying to find a solution that works better for the conservation easement and wetlands. He reiterated that the house location on the lapsed plans is too close to the wetlands.

There was a brief discussion on how to address the violations. Ms. Simone suggested a restoration plan to be included in the application. Commissioner Gault Galjan was in agreement. Ms. Simone asked the Commission for their thoughts on addressing the filling of the wetlands. Mr. Kaputa noted that he went to the site and did not see any new fill. He explained that he did not pay close attention and would like to look at the area again and added that it might not make sense to dig up the wetlands area. Mr. Sczurek stated that approximately 90 cubic yards of fill was placed in the wetlands area. Mr. Temple wanted to confirm that the Commission is not suggesting the current applicants placed the fill in the wetlands. Ms. Simone replied correct. Mr. Sczurek said that the previous owners placed the fill. Mr. Temple suggested giving the applicants some leeway and added that the soil may not have to be removed if the area is established. Ms. Simone suggested for an evaluation to be conducted on-site which details the impacts of removing the fill and the impacts of leaving the fill. She explained that this evaluation can help the Commission make the decision. Ms. Gault Galjan asked what it would take to

restore the wetlands. There was a discussion on evaluating and restoring the wetlands area. Ms. Gault Galjan suggested the applicants hire an ecologist to come up with a wetlands assessment.

Mr. Temple noted that moving the house is better overall for the wetlands system and added that he could probably overlook the wetlands filling as long as it is not a serious issue. He said that the current homeowners did not add the fill and that the cost of restoring the wetlands fill and area might be around \$30,000. Ms. Gault Galjan suggested that an ecologist define what a wetlands restoration would entail. Ms. Simone asked the Commission if there was a preference for a soil scientist or an ecologist. Mr. Temple noted that the submitted wetlands report did not contain any information on the function and values of the wetlands.

Mr. Gault Galjan suggested putting in a visual barrier and noted that several homeowners claimed that they did not know where the wetlands boundary was. Ms. McClain said that they do not have enough information and added that the Commission needs a detailed report. Mr. Kaputa stated that the Commission would like an evaluation report done by an ecologist. The Chairman asked Commissioner Thompson to provide a legal perspective on whether the new owner is on the hook for the violations. Mr. Thompson explained that, when the applicants purchased the property, professionals should have informed them about the conservation easement and wetlands. He explained that the applicants are responsible for the conditions on the property and suggested engaging the applicants and working out a solution. He said that the Commission is not trying to bankrupt the applicants and added that he has seen restorations plans and they do not have to be expensive. Mr. Thompson added that he agrees with Mr. Temple's points on moving the house and added that he is not in favor of excavation because it can create more problems. Mr. Kaputa remarked that his gut feeling is that an excavation is not needed and suggested a professional evaluate the conditions. The Chairman noted that there are 2 components to the violations, filling the wetlands and mowing the easement. He remarked that addressing the easement is easier because a split-rail fence can be put in to mark the boundary. The Chairman reiterated that there is a consensus for a professional to evaluate the wetlands. He noted that the homeowners are welcome to attend the meeting.

3. Request of MAIN STREET 2815 LLC to transfer the previously issued inland wetlands and watercourses permit from Sharpshoot, LLC –for redevelopment of 2807, 2813 and 2815 Main Street concerning a commercial building – Flood Zone and Planned Business & Development Zone – Alter & Pearson, LLC

Attorney Meghan Hope of Alter & Pearson, LLC represented the applicant. The site is located in the Planned Business & Development Zone and Flood Zone. Ms. Hope recapped that the site was initially approved for a free-standing restaurant in 2019. She explained that the applicant is planning to construct a bank, which would be much smaller than a restaurant and would have less parking than a restaurant. There was a brief discussion as to why Sharpshoot, LLC does not show up in the submitted documentation. Ms. Hope noted that the records show that it was sold in 2020 and explained that the tenant walked away from the restaurant proposal. She added that the client sold the property and what is needed now is the transfer of the permit. Ms. Simone confirmed the information. Ms. Hope stated that she submitted the letter for the first property transfer on October 3, 2019. She remarked that they will need to come back before the Commission for a recommendation to TPZ.

Motion by: Secretary McClain

Seconded by: Vice-Chairman Temple