

**GLASTONBURY CONSERVATION COMMISSION
(INLAND WETLANDS & WATERCOURSES AGENCY)
MEETING MINUTES OF THURSDAY, JUNE 15, 2023**

The Glastonbury Conservation Commission (Inlands Wetlands & Watercourses Agency), with Ms. Suzanne Simone, Environmental Planner, in attendance, held a Meeting via ZOOM video conferencing.

ROLL CALL

Commission Members-Present

Frank Kaputa, Chairman

Mark Temple, Vice-Chairman

Kim McClain, Secretary

Brian Davis

Anna Gault Galjan

James Parry

Jim Thompson

Chairman Kaputa called the meeting to order at 6:30 P.M. and explained the public meeting process to the applicants and members of the public.

I. INLAND WETLANDS & WATERCOURSES AGENCY

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 Drive – Residence AA Zone

Mr. Jonathan Sczurek, Project Engineer, discussed an evaluation done by Richard Snarski. The invasive species found in the disturbed area include Morrow's Honeysuckle, mugwort, garlic mustard and Russian Autumn Olive. Mr. Sczurek noted that they propose an eradication plan to remove the invasive species and will plant native shrubs with high wildlife food value. He then discussed the proposed conservation easement changes, saying that they propose moving the conservation easement to the edge of the lawn. The existing easement will be reduced by 1,548 square feet. Mr. Sczurek added that they propose creating a new conservation easement at 107 Stonepost Road, which will measure approximately 1,948 square feet. He noted that they will put in a fence along the proposed conservation easement on 119 Ledgewood Drive.

Mr. Kaputa not receive the drawings. Mr. Sczurek said that they just came out. Mr. Kaputa asked for information on the 2012 proposal, the triangle shaped conservation area for the hockey rink. Ms. Simone explained there was difficulty locating that conservation easement agreement in town records. Commissioner Gault Galjan asked if these are new plans. Ms. Simone noted that, at the April meeting, there was a discussion about the applicant getting a variance from the Zoning Board of Appeals (ZBA). Mr. Sczurek stated that the applicant is not willing to do so. Ms. Simone explained that she is prepared to write a summary on the conditions of the property, lot constraints and hardship, which would allow the applicants to receive a variance from the ZBA. There was a discussion on the 2012 easement not being filed by the previous

homeowners. Mr. Sczurek noted that the resolution stated that the triangle area was to be given to the homeowners in exchange for giving the Town a conservation easement strip on Stonepost Road. Vice-Chairman Temple asked if this lot has been owned by the same people. Ms. Simone replied no and noted that the property was previously owned by the Daltons. She stated that the current owners have not been before the Commission. Mr. Temple asked about the last property transfer. Mr. Sczurek explained that the previous owners did not record the 2012 easement. Mr. Temple assessed that the current homeowners had no way of knowing about the 2012 changes to the easement, unless someone told them verbally. Ms. Simone agreed. Secretary McClain asked who is responsible for making sure the easement is recorded. Ms. Simone explained that, once the applicant gets approval and the language is finalized, it is signed by the Town Manager. She noted that the system predates her and that she cannot speak on what had happened in 2012. Mr. Temple summed up that there were subsequent violations that included filling and cutting and the current applicant wants to build a house on the lot, and is asking to make changes to the easement to make the lot accommodate the proposed house location and design. Ms. Simone replied correct.

Ms. Gault Galjan noted that they do not know the conservation value of the easement and why it is deemed worthy of protection. Mr. Sczurek stated that the easement is close to wetlands. Ms. Gault Galjan asked if the owners are saying it is not possible to move the house. Mr. Temple noted that he would like to hear from the homeowner about the reasons for not approaching the ZBA. Mr. Kaputa noted that there was discussion at the previous meeting regarding the possibility of moving the property line. Mr. Sczurek explained that they looked into it and also looked into turning the house. He noted that he is not sure how they would grade the area and added that house would end up shoe-horned into the conservation easement, just like the current situation. Commissioner Davis noted that the plans propose an unnatural configuration of the house and added allowing that is not within this Commission's purview. He explained that the way the house is designed, the garage area would be all that is seen and explained that it is problematic to walk through the easement to the front door.

Mr. Temple asked about the existing footprint. Mr. Sczurek replied that the garage is 22-feet by 22-feet and the main house is 24-feet by 32-feet, with a connector that is about 15-feet by 15-feet. Mr. Temple asked about the square footage. Mr. Sczurek responded that the first floor with garage is about 1,500 square feet and added that he would not be surprised if the overall square footage for the 2 stories of the main house measures approximately 2,800 square feet. Mr. Kaputa noted that he wanted to further answer Ms. Gault Galjan's question. He explained that the wetlands are healthy, except for the fill area, and added that there are good native plants. Mr. Kaputa noted that the easement was created to protect the wetlands. Mr. Sczurek read out the list of invasive plants. Mr. Kaputa noted that the concentration of the invasive plants is in the fill area with which Mr. Sczurek agreed. Mr. Kaputa said that there are issues with this proposal and explained that the plans would bring the wetlands outside of the easement, subjecting it to violations. As things stand now, the wetlands are contained in the easement. Mr. Kaputa remarked that the way the plan was described was based on continuous violations, and because of these continuous violations it is reasonable to accept violations. He does not agree with this.

Mr. Sczurek said that, if they move the proposed easement right to the wetland edge, they could get approximately 4 feet of additional clearance between the building and the easement line. He asked if this would be more palatable. Mr. Sczurek explained that about 7 feet of buffer exists currently versus the 10 to 12 feet of the 2012 approved plan. Mr. Temple agreed with Mr. Kaputa's point and noted that the concern is that someone filled within the wetland. Mr. Davis noted that the filled wetland encourages people to mow the wetlands and added that the area is mowed to the point that the wetlands do not look like wetlands. He stated that this mowing comes with a suggestion to move the line. Mr. Kaputa agreed and noted that fill was added. Mr. Temple asked if the current homeowner is responsible for these violations. Mr. Sczurek stated that it was the prior homeowner. Commissioner Thompson noted that the easement in 2012 should have been recorded. Secretary McClain remarked that they are tasked with protecting the wetlands and not allowing property owners to continue violations. Mr. Temple suggested for the applicants to go before the ZBA and added that the current proposal does not offer anything; Ms. McClain agreed. Ms. Gault Galjan noted that the Commission had a list of actions for the homeowner, which included new design plans. Mr. Davis suggested the applicants move the conservation easement to include the wetlands area. Commissioner Parry asked the applicants to pursue the variance and added that Ms. Simone offered to provide a letter detailing the hardship. Mr. Temple noted that they have to address the wetlands fill issue and the mowing violations. The Commission discussed the list of actions that were outlined at the last meeting. The Commission agreed that the applicants need to go before the ZBA. Mr. Parry noted that a setback to the side and rear yard line would help this application. Mr. Sczurek agreed and noted that 10 feet on the side and 10 feet on the rear would help.

Mr. Temple remarked that he cannot vote to approve the current plan and added that the Commission asked for specific things, which were ignored. Ms. Simone said that the Commission asked for a list of things at the April 13th meeting, which included a report from an ecologist on the function and values of the wetlands, the benefit of removing the fill or keeping the fill in place, and new design plans. Ms. Simone noted that they received a report from Mr. Snarski dated May 30th. She asked the Commission if the report is sufficient and added that July 13th is the mandatory action date. Mr. Kaputa said that the report they received was not what they asked for. Mr. Temple noted that information on the functions and value of the wetlands was not provided.

Mr. Parry said there is a reasonable argument for a variance and explained that the lot constraints constitute a legitimate hardship. Mr. Temple agreed and added that Ms. Simone is willing to provide a letter to support this. Ms. Simone noted that the constraints on the land meet the definition of a hardship and reiterated that she is prepared to write a letter to the ZBA explaining the background information. Ms. Gault Galjan asked the applicants to provide a detailed environmental report and explained that the Commission has to be certain about the removal of the fill. Mr. Davis asked where things stand with the 2012 easement. Ms. McClain noted that, moving forward, the Commission will need to make sure that it is recorded. Ms. Simone said that she will research this and get back to the Commission. Ms. McClain said there is no history of the easement recorded on the land records. Mr. Temple asked what if the applicant walks away and can the Commission record the easement without the applicant? There was discussion on the original easement and plans to re-orient the house.

Mr. Temple said there is a consensus to wait and see what the applicants come up with. Ms. Simone reiterated that the deadline is July 13th. The Commission discussed the restoration, a fence, revised plans and new building footprint, new setback lines and the proposed change in the conservation easement that would include the wetlands area and a detailed report on the functions and values of the wetlands. The Commission was in agreement that the applicants have to address these issues. Mr. Temple asked how all this would get done before the next meeting. Mr. Sczurek replied that the ZBA meets the first Monday of the month and added that they would have to notice 14 days prior. He stated that he will check the schedule to see if they can make the July ZBA meeting. Mr. Sczurek added that, if they do not make the meeting deadline, they will withdraw the application.

Mr. Amer Skopic, the homeowner, explained that he was unaware of any issues when he purchased the property. He said that he was shown plans for the adjacent lot with no mention of restrictions and violations. He explained that he hired a lawyer to do a title search and added that no issues came up. Mr. Skopic said that the situation has been a completely different process and added that he has paid 9 years of taxes and the tax rate was higher because it is deemed a buildable lot by the Town. Mr. Skopic stated that he does not agree to pay \$30,000 to fix someone else's mistake and added that it is not on him. He noted that he will look into adjusting the property line and added that he is not willing to do something that negatively impacts the lot. Mr. Kaputa explained that the real estate attorney is supposed to provide information on easement condition and wetlands conditions to the buyer. He remarked that the lot is difficult and noted that the Commission will work with the property owner to help with the process.

Mr. Kaputa noted that the Commission asked for an assessment on removing the fill and added that the information was not provided. Mr. Sczurek explained that he spoke with Mr. Snarski who stated that it was his recommendation not to remove the fill because it was done years ago. Mr. Sczurek stated that Mr. Snarski's assessment is to never remove something that has been established for that long, since 2008. He noted that this information was not included in the report and can ask Mr. Snarski to put this information in writing and add something about the values of the wetlands. Ms. Simone wanted to clarify that the term buildable lot is a specific term with legal connotations. She explained that the wetlands agency does not make a determination on whether a lot is buildable. Ms. Simone said that there are constraints on the property and if the plan does not get approved, it does not mean that the lot is not buildable. She noted that June 14th was the deadline for ZBA submission. Mr. Kaputa said that the proposed conservation easement plan that was submitted is something the Commission cannot support. Mr. Sczurek stated that they will go before the ZBA to request a 10-foot relief from the side and rear yard to help this project. Commissioner Thompson noted that the variance from the ZBA would not require a lot line modification to the property. Mr. Sczurek explained that lot line adjustments are tricky with a mortgage and added that they would need to get a release. He said it is a difficult path. Mr. Sczurek stated that the best path is to go before the ZBA and added that it is helpful that Ms. Simone is willing to write a letter of support. Ms. Gault Galjan noted that wetlands are restored all the time. She remarked that the statement Mr. Sczurek communicated about Mr. Snarski's comment that fill within a wetland should remain due to its age was interesting and added that she has not heard anyone say that. Mr. Sczurek explained that he was

talking more from an erosion control standpoint and explained that Mr. Snarski thought the fill was recent.

Mr. Kaputa said that the invasives are concentrated in the fill area and asked the applicants to address the restoration/ removal of the fill. He stated that lawn has no place in the conservation easement and asked for a detailed planting plan. Mr. Temple agreed with the point made regarding the lawn area and stated that a fence and planting plan would go a long way. Mr. Kaputa noted that the easement is still being mowed. Mr. Davis stated that he went out to the property earlier today and it looks like the mowing was recently stopped. Mr. Sczurek remarked that he has the list of items and added that the clock has run out and they will start over.

II. CONSERVATION COMMISSION

Conservation Easement Restoration at 214 & 216 Thompson Street – Rural Residence Zone – proposed by owner of 210 Thompson Street, Thompson Street Estate LLC

Mr. Kevin Jackowitz, property owner of 210 Thompson Street said that the Commission met with Christian Allyn, owner of Invasive Plant Solutions. He has emailed Ms. Simone a planting plan created by a landscape architect. Mr. Jackowitz noted that Mr. Kaputa recommended white pines and added that they will be part of the planting plan. He explained that Mr. Allyn suggested replanting to be done in 2024, after the spray application, which will ensure the plants establish. Mr. Jackowitz remarked that he would like to hear the Commission's thoughts on the planting plan.

Mr. Kaputa said that he is glad to hear that white pine will be used and recalled an example of a successful effort to plant 100 white pine seedlings to eliminate invasive plants in the Diamond Lake area. He asked the applicant if seedlings were considered. Mr. Jackowitz responded that the planting plan was designed by a landscape architect and added that the goal is to put in mature plants, which will have a higher success rate and will not be subjected to crowding as saplings are. Mr. Kaputa asked if 6 trees are enough and noted that the trees have a chance to grow wider. Mr. Jackowitz replied that they need to maintain accessibility to the cleanout area. He explained that, if they started with seedlings, it would give the invasive plants a chance to repopulate the area, which will result in having to come back to the Commission to get permission to spray the area again. Mr. Kaputa said that he understands the points made and asked Ms. Simone if she looked into the cleanout area. Ms. Simone explained that it is a drainage outlet area with the potential to have standing water. Mr. Jackowitz agreed and explained that they need to access the area to make sure it is clean and free of debris and obstruction. Mr. Parry explained that a cleanout is normally for an underdrain system or a roof drain system. Mr. Jackowitz noted that he might have misspoken about the name of the pipe and explained that he will need access to remove clogs. Mr. Parry said that it makes sense to have access. Mr. Kaputa stated that he is not convinced that larger trees are better than seedlings and reiterated the success story in the Diamond Lake area. He said that, if the applicant would like to go with the bigger trees, a few more would be needed. Mr. Jackowitz noted that he would like to put in witch hazel and explained that it does well in shady conditions and in rocky and drained soil. He would like to plant the white pines first and come in later to add the witch hazel to create a more natural environment. There was further discussion on planting saplings versus

more mature plants. Mr. Parry noted that going with larger saplings may allow too much sunlight between the trees which might encourage invasive plants to grow and explained that a plan using many smaller plants may prevent sunlight penetrating, and then the white pines can be thinned out to ensure the rest of the trees grow bigger. Mr. Kaputa remarked that this is a typical forestry approach.

Ms. Gault Galjan is inclined to trust the landscaper's plan and asked the applicant to take an active approach on the management of invasives. Mr. Jackowitz replied that he has never dealt with invasive plants and added that they are encroaching on the gate and starting to encroach on the utility powerline area. He said that he will take an active approach and added that directly across the street has a significant invasive problem. Mr. Temple noted that he is not comfortable giving the homeowner blanket approval to plant anything. Mr. Jackowitz explained that the plan is to put in the plants in stages; the first step would be to see how the first plants take, and if they do not survive he would come back to the Commission and ask for another approval. He explained that putting in mature trees gives a higher chance of success and reiterated that the plans were designed by a landscape architect. The Commission discussed modifying the motion to include that the planting can be done in a period of 3 years and to contact the environmental planner if the planting does not work. There was some discussion on the past violations, and Mr. Jackowitz clarified that he did not cut down trees and just trimmed the limbs. He explained that the tree limbs were dead and nearly fell over on his wife and added that he has to keep the area safe for his children and family. Mr. Kaputa explained that the invasives across the street were caused by clearcutting about 20 to 25 years ago. The bittersweet took over the area, and the previous owners sold their house and moved to Florida. Mr. Jackowitz reiterated that he will take an active approach to managing the invasives. Mr. Kaputa remarked that 6 trees are light and added that he hopes it will do the trick. The Commission further discussed modifications to the motion and agreed to the added changes which include Ms. Gault Galjan's suggestion of adding "removal of invasives and replanting completed by the end of 2025."

Motion by: Secretary McClain

Seconded by: Commissioner Gault Galjan

MOVED, that the Conservation Commission grants permission, related to the conservation easement agreement recorded in Volume 2339 and Page 335 of the Glastonbury land records, for the use of herbicides for non-native invasive plant management and replanting is to be completed by the end of 2025 at 214 and 216 Thompson Street, as referenced in the map provided by Christian Allyn, Invasive Plant Solutions, presented at the April 27, 2023 meeting, and, the replanting of a portion of a conservation easement at 216 Thompson Street with white pine trees as referenced in the map and narrative provided by Kevin Jackowitz, owner of 210 Thompson Street, presented at the June 15, 2023 meeting.

Result: Motion passes unanimously. (7-0-0)

III. SHOW CAUSE HEARING

Violation of conservation easement agreement at 150 Chatham Hill Road – Rural Residence Zone – Paul Gondek, contractor - James D. Jusko, owner

Mr. Jusko introduced himself and noted that he was expecting Mr. Gondek. Mr. Webb was also present for the meeting. Mr. Davis noted that he is disappointed that Mr. Gondek is not present. Ms. McClain suggested continuing the show cause hearing. There was a brief discussion on the stone wall violation. Mr. Webb stated that he has communicated with Mr. Jusko and Mr. Gondek and can read out the script of the proposal. Mr. Webb explained that the owner is proposing an easement swap. There was a brief discussion regarding the submissions to Ms. Simone. Ms. Simone explained that she shared the information with the applicants to provide them with clear expectations from the Commission. Several Commissioners noted that they asked the applicants to provide a proposal for a new conservation easement in addition or exchange for the structural violations. The Commission members noted that the last discussion was not about swapping easements, but rather about adding a new easement. Mr. Kaputa remarked that, quantitatively, it is a loss in area. Mr. Temple noted that he is not in favor of swapping easements and suggested allowing the applicant to mow the existing easement near the wall area which will need to be maintained. He also suggested modifying the easement line and added that he does not have any problem with lights near the wall. Mr. Davis agreed and added that the Commission expected a net gain and asked the applicants to provide a new easement with environmental value. He noted that the easement with the stone wall has degraded in quality. Mr. Temple explained that they did not agree to eliminate the existing conservation easement and had agreed to allow the applicant to mow the area of the stone wall. Mr. Davis agreed and reiterated that the Commission expects a net gain, not just quantitative but qualitative. The Commission members continued to discuss the easement and allowing some activity in the existing area.

Mr. Kaputa explained that the original easement is of high quality and was created to prevent further development in the area. He can agree to some of the modifications mentioned, such as mowing and tweaking the line. Mr. Kaputa stated that he cannot support the lights. He said that, in light of all of the violations, he would like to see a conservation easement added to the north that encompasses the wetlands. Mr. Kaputa remarked that this was discussed at the last meeting and added that he thought they were on the right track. Mr. Davis asked the Chairman to explain the lights issue. Mr. Kaputa noted that lights have no place in a conservation easement: they are unnatural and have no ecological value. Mr. Davis noted that the wall is manmade. Ms. Gault Galjan asked if the easement line was moved before. Ms. Simone replied yes and explained that there was gain of about 6,000 feet. Ms. Gault Galjan noted that there is precedent for simply winning the right to move a conservation easement and added that she is not interested in swapping. She explained that swapping second guesses a Commission's decision. Mr. Kaputa remarked that it is one way to look at it and noted that the Commission can demand the easement gets restored to its state before development occurred, removing the stone wall. He stated that the Commission is trying to avoid that route. Mr. Temple said that they only have a few pictures of how the stone wall looked; they really do not know what it looked like. He asked how would they restore something they did not see. Mr. Kaputa replied that the Commission does their best. Ms. Gault Galjan noted that an approach would be to start from the position of what is reasonable to the homeowner. She remarked that the Commission should not entertain swapping out easements completely and added that they should look into restoration. There was further discussion on the easement and the violations. Mr. Jusko stated that no one is being confrontational and explained that the GIS lists the history of the easement as consisting of grass

and nothing else. Mr. Kaputa stated that he looked at the information on GIS and noted there were trees on the north side of the wall. Mr. Jusko said that the stone from the stone wall was on the property. He explained that the area was dead grass and he wanted to make it look nicer. Mr. Kaputa said that excavation was done. Mr. Jusko explained that Mr. Gondek received approval for the wall and added that the existing conservation easement has no value. Mr. Jusko stated that he wants to mow the lawn in the area of the stone wall. He explained that it is his first time buying property which is a new, learning experience. Mr. Jusko said that he can remove the lights if the Commission does not want the lights. Ms. McClain explained that a real estate attorney should have informed the applicant about the terms of a conservation easement agreement and added that the Commission is trying to work with the applicant. She remarked that there have been continuous violations. Mr. Kaputa listed the violations in the easement and added that, on Google maps, excavators can be seen, as well as a partially built stone wall. Mr. Webb noted that they received the permit in 2021 and explained that there were no specific guidelines or narrative on how to reconstruct the wall. He noted that there were also no specifics on how the wall should look and added that large stones around the property were used to build the wall. Mr. Kaputa noted that he does not remember that being part of the wetlands permit and added that the stones do not look like they came from the site. He noted that the Commission is trying to come up with a solution and stated that they can demand for the stone wall to be removed, and reiterated that they do not want to do this and are trying to find a solution. Mr. Davis suggested the applicants speak with environmental experts and come back with a proposal that gives the Commission a net gain. He stated that the Commission does not want to see a proposal for exchanging easements. Mr. Parry noted that the proposed conservation easement should not block off the applicant's property. Mr. Davis explained that the existing conservation easement was a special place at one time and added that the value has been compromised. He noted that they are willing to allow for mowing and reiterated that the Commission is looking for an additional conservation easement of equal or better value.

Mr. Davis reiterated that the applicants speak with environmental experts and present a proposal that provides a new conservation easement with value. Mr. Temple said that Mr. Davis explained it perfectly and added that the Commission does not agree to eliminating the existing easement and will allow mowing. Mr. Jusko stated that he has already given an easement. The Commission members discussed the violations that occurred in 2021. Mr. Jusko noted that the Commission has already received a net gain. There was further discussion on the continuous violations to the easement. Mr. Jusko stated that he was not involved in any of the violations and explained that he paid someone to take care of the work and added that he got approval for the pond access road and reiterated that there were no specific instructions on building the wall. The Commission members again asked Mr. Jusko to speak to environmental experts and bring a proposal which will result in a net gain to the conservation easement. Several Commissioners remarked that the talks are going nowhere and suggested speaking with the Town Attorney. Mr. Jusko stated that he paid \$80,000 for the wall and remarked that he does not want to take it down and added that he was unaware it was encroaching into the easement. Mr. Temple asked Mr. Jusko to come back in two weeks or a month with a better plan. Mr. Jusko asked if they wanted him to expand the triangular easement. Mr. Davis asked Mr. Jusko not to negotiate right now and suggested again for him to speak with environmental experts and come back with a better proposal that results in a net gain. Mr. Temple asked about the resolution timeline. Ms. Simone

noted that the show cause hearing will remain as an open item for the next meeting scheduled for July 29th. Ms. Gault Galjan asked Ms. Simone to provide the meeting minutes. Ms. Simone noted that they will be available. Ms. Gault Galjan suggested providing Mr. Webb with a copy of the meeting minutes. Mr. Webb asked for a copy of the previous permit. Ms. Simone replied that it would be 2021 and agreed to provide it. Mr. Webb said that they may need more time. Mr. Kaputa noted that Mr. Webb was at every meeting and has a good understanding of the history. Mr. Webb remarked that he is aware of all of the issues. The Commission thanked the applicants.

IV. APPROVAL OF MINUTES

1. Meeting of May 11, 2023

The minutes were accepted as presented, 4-0-3; Ms. McClain, Mr. Parry and Mr. Temple chose to abstain because they did not attend the meeting.)

2. Meeting of May 25, 2023

The minutes were accepted as presented, 5-0-2; Ms. Gault Galjan and Mr. Parry chose to abstain because they did not attend the meeting.)

V. COMMENTS BY CITIZENS ON NON-AGENDA ITEMS - None

VI. OTHER BUSINESS

1. Chairman's Report

Mr. Kaputa noted that they had a lot of discussion on conservation easements and added that Ms. Simone will talk with the Town Attorney about new language for easement agreements. The Commission discussed the possibility of fining for wetlands violations.

2. Environmental Planner's Report

Ms. Simone remarked that, moving forward, there is room to improve the easement language and noted that she will discuss this with the Town Attorney and provide the Commission with an update. Ms. Simone noted that Mr. Thompson has a legal background and has offered to assist with the conservation easement language. Ms. Simone asked the Commissioners to share their suggestions and added that she will work the suggestions into the draft.

With no other business to discuss, Chairman Kaputa adjourned the meeting at 9:44 P.M.

Respectfully Submitted,

Nadya Yuskaev

Nadya Yuskaev

Recording Secretary