



# Town of Watertown Connecticut

Planning and Zoning, Zoning Board of Appeals,  
Conservation Commission/Inland Wetland Agency

**Watertown Municipal Center**

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## CONSERVATION COMMISSION/ INLAND WETLAND AGENCY

**Regular Meeting Minutes**

**January 12, 2023**

**6:30 PM**

**Place:** Watertown Town Hall, Town Council Chambers  
61 Echo Lake Road  
Watertown, Connecticut

### 1. Call Meeting to Order

Craig Palmer called the meeting to order at 6:30pm

### 2. Roll Call

**Members Present:** Craig Palmer, Chairman  
Tom Murphy, Vice-Chairman  
Edwin Dalton, Secretary  
Joe Polletta  
Luigi Cavallo, Jr. (joined at 6:33)  
Pierre Moran

**Members Absent:** Ed Norton  
George Touponse  
Scott Tearman  
Charles Beliveau

**Others Present:** Moosa Rafey, Wetland Enforcement Officer  
Roseann D'Amelio, Secretary  
Paul Bunevich, Town Engineer

### 3. Public Participation

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**4. Public Hearing**

- A. Continuation of the public hearing from December 8, 2022 for Application #2022-17 of Steiner, Inc. for subdivision of a 6.15-acre parcel of land into 4 residential building lots and construction of 4 single-family homes and associated onsite septic and drainage systems, and driveways located at the intersection of Lake Winnemaug Road and Sperry Road, Watertown, CT.

Chris Smith, Esq.: There was a third party reviewer retained by the agency, Cynthia Rabinowitz. She went out to the site and generated two reports. One was November 30, 2022 and one was December 28, 2022. There was a concern from the commission as to whether the two wetlands pockets located on Lot #4 were connected as wetlands. With alternative 2A, we do provide for a conservation area to be placed over and restrict the two wetland pockets and it will be demarcated with a stone wall. We would have no objection to either requiring that conservation easement area as a condition of approval, or you may recommend it to the Planning and Zoning, where there's a pending application for subdivision approval. The Planning and Zoning Commission has closed their hearing and they have a certain time period after this agency renders its decision.

Moosa Rafey: I just want to clarify that the latest revision date on this map is 11-15-22 and today around 4:00pm, we received an email with some attachments. Are they the same as this one or are they revised?

Doug Divesta: The plan that I sent this afternoon was a rendering of the plan you have in front of you dated 11-15-2022. It's the same plan. I made a rendering because we left the last meeting, left the plans here for the record and I just redid them so you have a copy. This is alternative 2A and what we did was based on staff comments. Se proposed a house that's 1800 sf. The house itself is 58ft from the closest wetland. The patio area is about 50ft from the closest point of the wetland to the patio itself. In terms of water quality, we provided a water quality swale and it's based on chapter 11 in the water quality manual and it will provide the water quality for the pervious areas for the various driveways. We are provided a demarcation, a stone wall, along the closest point of flag #1 to flag #6 to the stone wall and from that point on around the wetland pocket #1. We're providing a 25 ft buffer from the wetlands line to the demarcation line. Wetlands pocket #2 the southern portion that will probably be 25ft of buffer area around the wetlands and demarcation. The buffer area on pocket #1 is approximately 20,187 sf. Alternative A do not result in any adverse impacts to the wetlands or watercourses and B are compliance with satisfying the statutory consideration provided in this section

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Tom Murphy: did you indicate the square footage of upland review area that's affected by this or did you skip over it?

Doug Divesta: It's approximately 20,000 sf

Tom Murphy: So it's a half an acre. I think in the application you had .65 upland review disturbance. I remember from day 1 and in the application you said there's upland review disturbance then you said there's not then you said there is. The amounts were in disagreement. I think you had a total wetland area of .7786 acres or approximately 0.65 plus/minus the disturbance was in the review area. Does this plan change that?

Doug Divesta: That disturbance includes the area within lot #3. I was focusing on Lot #4, that's why there's a difference. The application was based on all the upland review area in Lots #2 & 3 and Lot 3 did not change. Only Lot 4 has been changes.

Ned Dalton: When that fence rots away, who's going to responsible to fix it when that fence

Doug Divesta: the owner

Chris Smith: It's going to be a stone wall so then we won't have to worry about a fence rotting t.

Moosa Rafey: This plan that we're looking at doesn't show a stone wall.

Doug Divest: You can put that in the condition of approval

Chris Smith: My client is indicating that where it's depicted to be a fence that'll be a stone wall for both wetlands

Moosa Rafey: The pipe that you show on this plan, it's just a line. Does the map show the actual footprint of the digging?

Doug Divesta: That line indicates that there's a force main going through there (Inaudible)

Moosa Rafey: How wide is that going to be?

Doug Divesta: 18" 2 ft at the most and 4 ft deep

Craig Palmer: So there's been no other changes since you submitted it the last time? Basically you submitted the same print with some color on it, correct?? I thought we asked you for some other changes and there was some discussion you were going to do it. I'm just trying to get the facts. This is the same print?

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Doug Divesta: It's the same print as last time

Moosa Rafey: I have a question for the soil scientist. It was my understanding that in the past, that area was wetlands because of the farming operations and some deposition of sediments, it was buried and now it doesn't qualify as a wetland

Jim McManus: 2 of the test pits had wetland soils and I'm assuming the farmer put fill in to help move his equipment around. We did six test pits and two of them were clearly wetlands that were filled a long time ago. All the other 4 were upland soils. They were not filled they were not regulated soils.

Moosa Rafey: Some areas were wetlands

Jim McManus: Just those two pits

Moosa Rafey: Can they be restored? Make that connection between the two wetlands?

Jim McManus: You would have to dig down to the water table or to where it's saturated

Craig Palmer: Does Public Works have anything to add?

Paul Bunevich: The only thing I want to add that wasn't in my letter is the replacement of the infiltrator system by water quality swale which is an above ground trench. It has to be maintained along with the rest of the restrictions on the lot and would have to be noted on the land records

Moosa Rafey: Paul, the area that's taken by the drainage swale and the rest of the area that the house is proposed, how big is that area?

Paul Bunevich: I don't have a scale

Doug Divesta: It's approximately about 70' x 80'

Moosa Rafey: Ok, that's basically the usable area for the house, but do you think that is enough for a single family home with a backyard, patio etc?

Doug Divesta: In my opinion, yes.

Moosa Rafey: But no future additions or anything?

Doug Divesta: No

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Luigi Cavallo, Jr.: I'm having a hard time wrapping my head around this. There's two test holes that were wetlands for sure but then they were filled in and we're going to pretend like they were never wetlands. Who knows if the rest of the test holes were filled in more than the backhoe could dig. Are we supposed to over look all this in the interest of squeezing another house on subdivision that doesn't need it?

Ned Dalton: Again, the yard waste. The usable yard space. Someone is buying 2 1/3 acres and they can use maybe half and your yard waste is going to be a significant problem maintaining that swale. No one is going to want a swale in the middle of their only usable yard and it's not going to be maintained. It's the only usable space the people have. All the yard waste in my opinion and experience is going to go on the other side of that wall dumped into the wetland area and they're probably going to try to use that on both sides by maintaining both sides of that wall. A couple houses, great. Three houses, you're pushing it, four, to me just doesn't fit on this lot and we're doing way too much here.

Chris Smith: 1. The stone wall is going to be 25ft from the wetland area and my client is willing to have a conservation restriction placed on the wetland areas and no activity whatsoever. It's not the number of lots but the regulated activities associated with the lots. The question is are any of the regulated activities identified are going to result in an adverse impact to a wetlands. To deny an application, there has to be expert testimony identifying and quantifying a harm that's going to have that will occur to the wetlands from one of the regulated activities that are associated with the 4 lot subdivision and speculation is not enough. You had an expert, Cynthia Rabinowitz, and in her opinion she agreed with the delineation of the wetlands and she said there's going to be no impact, never mind adverse impacts. Your town engineer agrees with Ms. Rabinowitz's opinion. You retained her and my client paid for her services and she provided you with her opinion. You have 4 experts saying there's no problem. I respectfully submit we've addressed the comments from the commission.

Ned Dalton: You mentioned that the expert witness, third party reviewer, Cynthia Rabinowitz, stated that there's no impact, but in paragraph 5, he states that she's concerned about the future impacts. You saying that she said there's no impacts, she's stating she's concerned about everything you mentioned. Every one of these lots currently drains into these areas so everything done on this piece of property affects what's done on this wetland area. Just because it's not in the upland review area it doesn't mean it doesn't impact the wetland. That being said, all of these problems do affect this wetland. I agree you can't make your decision on something outside of that but everything on this piece of property does affect the wetland. In this upland review area, this entire lot 4 is in it except for a small little piece. All of Lot 4 is affecting the wetland in an area that we can control.

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Chris Smith: You can have many impacts but if they don't result in an adverse impact an agency can't deny that regulated activity. Ms. Rabinowitz does not identify any particular activity that's going to have an adverse impact. If you approve this, I suggest you have a conservation area and designate this area out. My client will put a deed restriction on there as recommended by your town engineer and put a stone wall around it not a fence. To Mr. McManus, do any of the regulated activities associated with the proposed site development plans in the application any of the alternatives in particular alternative 2a. Do any of those regulated activities result in an adverse impact to a wetland or watercourse?

Jim McManus: It's in my professional opinion, the original application's site lay out and regulated activities and the conduct in the regulated activities associated with any alternatives and in particular alternative 2a do not result in an adverse impact to a wetland or watercourse and two are in compliance and satisfy the statutory factors for considerations provided by Section 22a-41 of the CGS and this commissions regulations

Chris Smith: That's the legal standard relative to the impacts. There's going to be a clear demarcation with a stone wall and restrictions in their deed. I have to disagree with Mr. Rafey to a degree and I think something that I heard that you look at the regulated activity associated with the lots you don't just look at this 4 lot subdivision in the regulated activity and say you don't like regulated activities on lot 1 so we're going to deny the whole subdivision.

Moosa Rafey: Just for the record, I did not recommend to deny the application/subdivision.

Chris Smith: No. I thought there was a question if somebody didn't like one of the lots they would just deny the lot

Tom Murphy: I think the question was can you vote for lots 1,2,3 & 4 independent and separated from all the subdivision

Moosa Rafey: I said no, you need one motion

Tom Murphy: Moosa clearly said you cannot do separate votes.

Chris Smith: I didn't mean to infer anything but you're looking not at 4 lots, you're looking at the regulated activities

Ned Dalton: Cynthia is still saying that the only place there's not going to be adverse work being done is in the pipe. That's where she says that. You're trying to say that none of it has any adverse. She says that there's impacts. The future impacts are inevitable. Human activity is an adverse impact in a wetland, humans don't

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belong in wetlands. Any activity in that area, building a house, is an adverse impact

Chris Smith: Where does she say that?

Ned Dalton: I didn't say she said it, I'm saying it. She said the future impacts of wetlands by residents of Lot 4 throughout the variety of common activities such as lawn areas, disposal etc. are going to impact. We've seen it in the past and we know it happens and to say it doesn't is not realistic.

Tom Murphy: The town atty says the same thing basically that there are future impacts and we've had experience in the town where lots were approved that were mediocre quality.

Ned Dalton: Deed restrictions are only enforceable by your neighbors.

Chris Smith: I think it's important that Ms. Rabinowitz nowhere says that there's going to be an adverse impact associated with any of the regulated activities. That's what the commission needs to deny a regulated activity and if the only uncontroverted expert testimony is no adverse impact then you can't deny the application.

Ned Dalton: Nor did she say there's no adverse impact either

Chris Smith: She doesn't have to. She has to say that the only evidence in front of you is Mr. McManus saying and the engineer saying there's no adverse impact. You retained a third party consultant to look at this proposal and she did and she did not come back and say and identify and quantify. That's the language and that's what the state supreme court has said, to deny an application a landowner an application for a wetlands permit that's what has to happen

Ned Dalton: She was only retained o worry about that 1 crossing. She didn't give an opinion on the rest of it.

Chris Smith: The only expert testimony on the record is uncontroverted testimony that there will not no adverse impact to a wetland, whether you include anything that Ms. Rabinowitz had to say or anything your town engineer says. The only expert testimony is from the applicants civil engineer and wetlands soil scientist.

Moosa Rafey: At the last meeting I asked Mr. McManus that are you telling us that all these activities within the upland review areas on this Lot 4 has no adverse impacts on the wetlands? You said no. Then your report says there's temporary impacts and also long term impacts by erosion and sedimentation.

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That is in your report. My question is and to summarize everything and put an end to this and close the public hearing. All these activities in the upland review areas for the construction of the house, the drainage swale, the piping, the septic system, everything, in your opinion has no impact on the wetlands?

Jim McManus: No adverse impacts on the wetlands, regulated areas, yes.

Moosa Rafey: All of them?

Jim McManus: All of them

Pierre Moran: What are the deed restrictions on Lot 4

Chris Smith: The deed restrictions would provide for no activity whatsoever including any residential or recreational activities in the designated area of the conservation easement

Pierre Moran: So would that include an addition to the house, a pool, a shed?

Chris Smith: it would be structures and activities of any type. If anybody wanted to do anything in addition to what's shown on these plans and they're in the upland review area, they have to come back to you and ask for a wetlands permit

Moosa Rafey: That's exactly the reason the commission doesn't want to do that. They'll come back and say you approved this lot now you won't allow me to have a pool

Tom Murphy: Going back to the first meeting on this application, there were no alternatives presented, reasonable, feasible alternatives, and I clearly see 1 feasible alternative and it would be 3 lots not 4. It wasn't submitted in the application and I've said from day 1 the application was deficient because I don't know if there's lies or misrepresentations throughout the whole thing.

Craig Palmer: We've asked for the plans to be redrawn and you've done nothing other than you came here with this 4 lot subdivision. You haven't downsized and we asked for a prudent alternative and you haven't done anything. You just kept with the same and just colored the map. Nothing has changed. You don't know if the farmer filled it or not. Nobody knows that. When you walked the property, you were there and you could see how that water is running over there and if the backhoe didn't come in you'd still be sitting there with your professional opinion saying there's no wetlands.

Luigi Cavallo, Jr. motioned to Close the public hearing for Application #2022-17 of Steiner, Inc. for subdivision of a 6.15-acre parcel of land into 4 residential building lots and



construction of 4 single-family homes and associated onsite septic and drainage systems, and driveways located at the intersection of Lake Winnemaug Road and Sperry Road, Watertown, CT and was seconded by Joe Polletta - All in Favor

## **Regular Meeting**

### **5. Action on Minutes**

- A. Regular Meeting November 17, 2022
- B. Regular Meeting December 8, 2022

Luigi Cavallo Jr. motioned to Approve Regular Meeting Minutes of November 17, 2022 & December 8, 2022 and was seconded by Tom Murphy - All in Favor

### **6. Pending Applications**

- A. Application #2022-17 of Steiner, Inc. for subdivision of a 6.15-acre parcel of land into 4 residential building lots and construction of 4 single-family homes and associated onsite septic and drainage systems, and driveways located at the intersection of Lake Winnemaug Road and Sperry Road, Watertown, CT.

Tom Murphy: I would like the motion to read, approval of applications lot 1, 2 & 3 and deny lot #4.

Luigi Cavallo, Jr. I though we weren't able to do that so I think we have to vote on this entire thing as one packet and if they want to come back and re-present it after they can come back

Tom Murphy: I would understand it that if we approve lots 1,2,& 3, deny lot 4 the application could be approved with those conditions

Joe Polletta: I second that motion

Tom Murphy: If the motion carries I would recommend that we request Moosa to draft a motion we can received prior to next meeting review and vote on it at the next meeting.

Moosa Rafey: Basically you want a motion drafted for approval for a three lot subdivision, lots 1,2 &3? You are not approving it tonight? You are asking me to do it for next month?

Tom Murphy: I would say ask you to do it for next month and read the motion and approve it all next month

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Moosa Rafey: Ok, then the motion would be that we ask the Wetlands Enforcement Officer to draft a motion to approve that 3 lot subdivision

Ned Dalton: We also need the updated plan. It's not even correct for the four lot

Luigi Cavallo, Jr. We can't at this point because the public hearing is closed. We can't take new information.

Tom Murphy: Basically, send it to Moosa to write up their approval of a 3 lot subdivision with 50ft conservation easement and in his motion will include the standard conditions and upgraded maps . He has our guidance so basically table it until next meeting, have the motion so we can have it ahead of time, review it, discuss it and approve it next meeting.

Moosa Rafey: Let me summarize it. You want to table action on this application at this time and ask me to draft a motion for you to approve this application with lots 1,2 & 3 but not lot 4 with 50 foot conservation easement around the wetlands

Tom Murphy: Correct and will you include standard conditions plus the updated map, deed restrictions etc.

Luigi Cavallo, Jr.: Can I add to that? Can you put something in the agreement that this lot is denied with prejudice or something where they're not going to come back in 10 years and say we want make it a building lot but there's a new board

Moosa Rafey: You are denying the regulated activities on that lot. If you deny it they cannot build on that lot 4.

Tom Murphy motioned to Instruct the wetlands officer to draft a motion for a three lot subdivision with 50 ft of conservation easement around the wetlands, stone wall, updated maps and standard conditions and was seconded by Joe Polletta - All in Favor

Joe Polletta motioned to table Application #2022-17 of Steiner, Inc. for subdivision of a 6.15 acre parcel of land into 4 residential building lots and construction of 4 single-family homes and associated onsite septic and drainage systems, and driveways located at the intersection of Lake Winnemaug Road and Sperry Road, Watertown, CT and was seconded by Luigi Cavallo, Jr. - All in Favor

B. Application #2022-28 of Strova LLC for construction of a single-family home, driveway and a barn within upland review area at Lot 1 Willow Brook Farms Subdivision, Northfield Road, Watertown.

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Craig Palmer: We had a site walk last Saturday and there were some questions about where you were with the 100 ft setback. We know how you got here, we have no control over that but you still need a wetlands permit.

Moosa Rafey: When this subdivision was approved the setback for wetlands was 50 ft and now it's 100 ft. I spoke to the applicant and he's willing to put a retaining wall on the side of the driveway because that was one of the concerns the commission had. The slope on the side of the driveway is too steep and it's not going to be stabilized but he's willing to put a stone wall there in order to control that and also make the area in front of the garage 35 ft wide. There will be some regulated activities within the upland review area within the 100 ft but not within 50 ft

Ned Dalton: Is the driveway going to be what's represented on this plan? Currently, it's pretty straight, it's only 3 ft off the garage

Albi Cekici: I can build it like it's on the plan or change it to your satisfaction but I'm willing to put a stone wall around the driveway, 30-35 ft, enough room where I can pull the car in and out of the garage. I'm willing to put a 4-5 ft retaining wall that's going to keep the driveway from washing into the wetlands

Ned Dalton: This problem isn't your fault. We have an issue here that was created by the town and it happens too much. What we decide, I would say is that building a wall exactly on your driveway doesn't make a lot of sense either. If we approve the driveway similar to the way it is, it needs to be a few feet of shrub bed from the driveway to the wall because you need to delineate it. You need a place to put a fence and trees and shrubs so someone doesn't go driving over the edge.

Albi Cekici: There's a slope that's already on the plans that shows that the driveway gets sloped. Unless you guys don't like that

Moosa Rafey: The slope is too steep. If you can make it a 3:1 slope and then stabilize it and then put a stone wall there

Albi Cekici: That's not a problem

Moosa Rafey: What's your plan for the barn?

Albi Cekici: I'm not planning on doing anything with the barn yet. If I want to come back in a couple of years to put up a barn can I get permission?

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Ned Dalton: If you're putting it within the wetlands. If you're putting a driveway too it's going to be an issue

Moosa Rafey: If it's outside the regulated area you don't need a permit from us but because the driveway will be within the regulated area you'll need a permit. To be reasonable, I think if we get rid of the driveway to the barn and the barn then there shouldn't be an issue with this application. The house is already built and the driveway is already in place. If we put the condition that there should be a 3:1 slope plus a stone wall, I think you can make a decision on that tonight. Paul and I can review that because we're not dealing with a long driveway. The house is already built. I will put that as a condition of approval.

Tom Murphy: Why are we in this situation anyway? This should never have happened. We're doing this thing after the fact, it never should've been taken care of until it came before us and this applicant wouldn't be in the position he's in if we did our work the way it's supposed to be done. This is wrong the way it happened. He's going through hell for no reason.

Albi Cekici: If I had known before I could've moved the house more to the left

Tom Murphy: You didn't get here because you were told you didn't have to come here. It's not your fault and we're stuck with the ramifications of it and it shouldn't happen this way. It's not against you. It's a very simple process if the rules are followed. We wouldn't be where we are if it was done correctly. Again, its not your fault

Ned Dalton motioned to Approve Application #2022-28 of Strova LLC for construction of a single-family home and driveway within upland review area at Lot 1 Willow Brook Farms Sub-division, Northfield Road, Watertown, minus the barn and driveway for the barn, subject to standard conditions with a 3:1 slope from driveway, retaining wall and was seconded by Luigi Cavallo, Jr. - All in Favor

**7. New Applications**

None

**8. Old Business**

- A. Notice of Violation issued to the owner of 30 Jericho Road, Watertown.
- B. Discussion on Application Review Process by the Agency
- C. Discussion on CCIWA Application Fees.

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Moosa Rafey: I don't have anything for Item A but I'm waiting for the subcommittee to tell me when they want to meet to discuss the other two issues, the regulations and the application fees.

Tom Murphy motioned to schedule meeting for discussion on CCIWA Application Fees on Wednesday, January 25, 2023 at 5:00pm in the Planning and Zoning Conference Room and was seconded by Ned Dalton - All in Favor

Tom Murphy motioned to table Items A, B & C under Old Business and was seconded by Pierre Moran - All in Favor

**9. New Business**

A. Referral from Town of Bethlehem Land Use Department.

Moosa Rafey: There was a referral from the Town of Bethlehem and I asked them to send me a copy of the site plan. One is for a 3 car garage, like a shop, on the side of the road on Magnolia Dr and one is on Townline Hwy South in Bethlehem. It's hundreds of feet from Watertown for a single family home and I didn't see any problems with both.

Tom Murphy motioned that the Commission has no objection to Referral from Town of Bethlehem Land Use Department and was seconded by Ned Dalton - All in Favor

**10. Communications and Bills**

A. Letter from Connecticut Land Conservation Council dated November 28, 2022.

B. Connecticut Land Use Law for Municipal Land Use Agencies, Boards, and Commissions sponsored by Connecticut Bar Association.

C. Revised 2023 Land Use Commissions Meeting Dates

Tom Murphy motioned to Accept & File Items A & B and was seconded by Joe Polletta - All in Favor

Tom Murphy motioned to Accept the proposed 2023 Land Use Commission Meeting Dates and was seconded by Joe Polletta - All in Favor

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**11. Reports from Officers and Committees**

A. Chairperson's Report

Craig Palmer: February is elections so if anyone is interested in any of the seats. I think we have a new commissioner tonight, Mike Jedd. I think he's getting put on tonight at the Republican Town Committee Meeting

Moosa Rafey: The Town Council will send us a letter introducing you as a member of the commission and once I receive that we will get you a packet of information.

B. Report from Wetland Regulations Review Subcommittee

Tom Murphy: Sometime last month I got an email saying that the By Laws that were reviewed were submitted to the town well over a year ago we got them back. I waited until after the holidays to send out an email to set up a date which was done tonight and were doing it January 25, 2023 to review the final regulations. Hopefully they're acceptable and we can bring them to the following meeting to approve them all.

Moosa Rafey: The process is once you agree with those changes then you present it to the commission and then the commission has to hold a public hearing and then you can approve them.

Tom Murphy motioned to hold a Subcommittee meeting on January 25, 2023 at 5:00 pm and table Items A & B under Reports from Officers and Committees and was seconded by Joe Polletta - All in Favor

**12. Reports from Staff**

A. Agent Determination

- a. Application #2022-29 of Natali Black for installation of a new onsite septic system within upland review area at 117 Cayuga Drive, Watertown.

Moosa Rafey: This is another failed septic system and Bob Smith wanted to fix it as soon as possible and I issued the permit. It's over 40 ft from the edge of the small brook. It's in the Lake Winnemaug area and those lots are very small. There's no other alternative location to put it and this is the only place they can put it. I already signed off on it.

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**13. Public Participation**

**14. Adjournment**

Tom Murphy motioned to adjourn at 8:05pm and was seconded by Pierre Moran - All in Favor