

**TOWN OF EAST WINDSOR
INLAND WETLANDS WATERCOURSE AGENCY**

Regular Meeting – July 10, 2013

Minutes Heading: MEETING MINUTES

*******Draft Document Subject to Commission Review/Approval*******

CALL TO ORDER: Chairman Savaria called the Meeting to order at 7:02 p.m. in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT.

ESTABLISHMENT OF QUORUM:

Present: Regular Members Ron Savaria (Chairman), Richard Osborn, and Alternate Members Michael Sawka.

Unable to Attend: Regular Members Michael Koczera, John Malin, and Robert Slate, and Alternate Member Kathryn Roloff.

Guests: Selectman Richard Pippin (Inland/Wetlands Liaison); Selectman Dale Nelson (arrived at 7:45 p.m.), and Kathy Pippin, Board of Finance.

Chairman Savaria noted the establishment of a quorum with two Regular and one Alternate Member as noted above. All Commissioners will sit in on votes this evening.

Also in attendance was Wetlands Agent/Zoning Enforcement Officer Robin Newton.

AGENDA ADDITIONS:

Wetlands Agent Newton requested the addition of discussion of the **North Road Sewer Phase II under MISCELLANEOUS:** (No motion).

APPROVAL OF MINUTES /June 5, 2013:

MOTION: To APPROVE the Minutes of Regular Meeting dated June with the following amendments:

Page 2, Line #90: “hatchway; she will discuss potential alternative ~~configures~~ **CONFIGURATIONS** with Mr. Carbray.”

Osborn moved/Sawka seconded/VOTE: In Favor: Unanimous

CONTINUED PUBLIC HEARINGS: None.

NEW APPLICATIONS TO BE RECEIVED: None.

NEW BUSINESS/1. #05-2013 – Letourneau Builders – Request to conduct regulated

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activities to construct single family home. Property located 3,000 feet west of intersection of Route 191/Phelps Road. Map 064, Block 19, Lot 052-04:

Chairman Savaria suggested all comments made by Wetlands Agent Newton and Town Engineer Norton have been answered.

Wetlands Agent Newton noted she had discussed with the applicant the possibility of granting a Conservation Easement on land to the rear of the property. Commissioner Sawka concurred, noting that abutters change over the years. Wetlands Agent Newton noted the Commission can't require the applicant to grant a Conservation Easement, but can make the request of the applicant. She noted the applicant has not yet arrived at this meeting; the Commission decided to table this application at this time.

MOTION: To TABLE Application #05-2013 – Letourneau Builders for a request to conduct regulated activities to construct single family home. Property located 3,000 feet west of intersection of Route 191/Phelps Road. Map 064, Block 19, Lot 052-04 until the Applicant arrives.

Osborn moved/Sawka seconded/VOTE: In Favor: Unanimous

NEW BUSINESS/2. #06-2013 – Patrick Carbray – Application to expand existing deck and add above-ground pool to property at 86 Winkler Road. Assessor's Map 104, Block 17, Lot 019-05:

Appearing to discuss this Application was Patrick Carbray, property owner. Mr. Carbray submitted the following photos for the Commission's review:

- View from the deck towards the back yard; the location of the fire pit directly behind the house would be the location of the proposed pool.
- View of the existing deck.
- View of the shed. Chairman Savaria questioned if the shed shown in the photo is the square marked on the plan? Mr. Carbray concurred. Chairman Savaria questioned the adequacy of the plan submission as he is used to more detailed plans; Wetlands Agent Newton noted the submission is acceptable

Mr. Carbray clarified that he will maintain access to the hatchway. The deck will be approximately 500 square feet, while the pool will be a 30' round model. Wetlands Agent Newton noted that the pool will be further away from the wetlands than the corner of the house currently is. Installation of a split rail fence was a condition of approval of the building lot when the original developer, Jim Giorgio, brought the lot approval before the Commission; Mr. Giorgio is still responsible for installation of the fence.

Wetlands Agent Newton suggested Mr. Carbray should be fine with the addition of the pool and deck; she suggested the addition of the following condition to the proposed

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approval motion:

- No pool water may be drained or otherwise discharged into or directly adjacent to the wetlands areas.

Chairman Savaria queried the Commissioners for comments; both Commissioner Osborn and Commissioner Sawka felt the proposal was fine. Chairman Savaria indicated he would appreciate a little more detail under plan submissions but he is comfortable with the proposal as it has been reviewed by Wetlands Agent Newton, and she is comfortable with the application.

MOTION: To APPROVE Application #06-2013 – Pat Carbray, 86 Winkler Road – Application for a deck expansion and placement of an above ground swimming pool within the 150' upland review area.

This approval is granted subject to conformance with the referenced plans as may be modified by the following conditions:

Standard Conditions

1. This Permit is valid for a period of Five (5) years from the date of issuance OR will be valid until the companion planning/zoning permit approval expires but shall not exceed 10 years. Any regulated activity approved by the Agency shall be completed within one year from the time such activity is commenced, provided the Agency may establish a seasonal restriction within which any regulated activity shall be conducted and may require that an activity, once commenced, be completed within a time period of less than one year and further provided the Agency may extend: (1) the time period of the original permit provided such period shall not extend beyond ten years from the date such permit was granted, or (2) the time period within which an activity, once commenced, is required to be completed under this section.
2. The Commission or its designated agent must be notified in writing no later than 48 hours prior to the commencement of permitted activities, and upon completion of said activities.
3. The burden to extend the approved timeframe for the regulated activity (and the time period for the original permit) is on the Permittee; the Town of East Windsor is not required to give notice of the permit's expiration.
4. This permit shall not be assigned or transferred without the approval of the Agency.

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5. This document shall be included in all construction contracts and sub-contracts dealing with the work proposed and shall supersede all other contract requirements.
6. During the construction phase, the applicant shall be responsible for maintaining a copy of this permit at the site.
7. The Permittee shall permit the Chairman of the Inland Wetland Agency, or its authorized representative(s) or designee(s) to make periodic inspections at any time deemed necessary in order to assure that the activity being performed under authority of this Permit is in accordance with the terms and conditions prescribed herein.
8. Prior to the start of construction, adequate erosion and sedimentation control measures shall be implemented, and shall be maintained throughout the entire construction phase in accordance with the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control until the site has become stabilized with permanent vegetative cover. The construction site shall be left in a stable condition at the close of each day. An adequate stockpile of erosion control materials shall be on site at all times for emergency or routine replacement and shall include materials to repair silt fences, haybales, stone-riprap filter dikes or any other devices planned for use during construction. Additional erosion control measures are to be installed as directed by the Town Staff if field conditions necessitate.
9. These permit conditions apply only to the work approved by this permit. Any other work to be done within the area of regulatory interest shall require the filing of a new or modified Inland Wetlands Application for consideration by the Commission.
10. If any alteration of the wetland/resource area does occur, the Commission shall impose such measures as it finds necessary to protect and restore those areas.
11. All temporary barriers, including erosion and sedimentation controls are to be removed (in suitable weather conditions) upon completion of the project.
12. A copy of the As-Built plan shall be submitted to this Commission/Wetland Agent upon completion of the project. The as-built will be reviewed by the wetland agent and verified in the field.
13. The Commission reserves the right to impose additional conditions on any or all portions of this project that could impact an area of regulatory interest under the Inland Wetlands and Watercourses Regulations.

Additional Condition:

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14. No pool water may be drained or otherwise discharged into or directly adjacent to the wetlands areas.

Osborn moved/Sawka seconded/VOTE: In Favor: Unanimous

Chairman Savaria noted Mr. Letourneau had arrived at the meeting, therefore the Commission returned to consideration of Application #05-2013. (No motion).

NEW BUSINESS/1. #05-2013 – Letourneau Builders – Request to conduct regulated activities to construct single family home. Property located 3,000 feet west of intersection of Route 191/Phelps Road. Map 064, Block 19, Lot 052-04:

Mr. Letourneau, of Letourneau Builders, introduced himself. Wetlands Agent Newton returned discussion to consideration of the rear area to be identified as a Conservation Easement. She noted that while there is a notation on the current plan it doesn't include the wetlands to the rear. Discussion followed; Mr. Letourneau questioned if a buyer could put a shed out there? Wetlands Agent Newton and Chairman Savaria replied affirmatively; Wetlands Agent Newton noted someone can still walk on trails in the area.

Commissioner Osborn recalled this same question came up when the original developer came through with his subdivision plan. Mr. Letourneau indicated he didn't know; he had been told by the property owner it was a buildable lot. Wetlands Agent Newton noted she had not been employed by East Windsor at the time of the original approval but when she reviewed the file for Mr. Letourneau's request this lot had been left out of the subdivision and the area had been noted as remaining land. Approval of this parcel as a building lot requires submission of an application before the Planning and Zoning Commission (PZC) for a Special Use Permit. Commissioner Sawka recalled there had been similar discussion regarding a Conservation Easement during the previous application. It was felt the original developer, Guarino, had approval for the other 3 lots and wanted to market them. Mr. Letourneau reiterated he had been told by the property owner that this lot was a buildable lot; Wetlands Agent Newton noted review of the file found the lot was considered remaining land. She suggested the regulations only require set back compliance; this house will be located within the 150' upland review area. Wetlands Agent Newton suggested from a construction standpoint this lot is better than a lot of the lots on Winkler Road.

Chairman Savaria reported Town Engineer Norton's comments have been addressed.

Wetlands Agent Newton suggested the plan is being revised to show the Conservation Easement; it would be easier to read if the wetlands were shown as arrows facing towards the wetlands. She also noted a condition of the PZC approval will include the addition of discs marking the Conservation Easement boundary.

MOTION: To APPROVE Application #05-2013 – Letourneau Builders for the

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construction of a single family home located within the 150' upland review area on property owned by Jeff Cotnoir located at 141 Tromley Road.

This approval is granted subject to conformance with the referenced plans, "Plot Plan #131 Tromley Road, prepared for Letourneau Builders, East Windsor", dated 4/18/13, revised through 6/10/13, as may be modified by the following conditions:

Standard Conditions

1. This Permit is valid for a period of Five (5) years from the date of issuance OR will be valid until the companion planning/zoning permit approval expires but shall not exceed 10 years. Any regulated activity approved by the Agency shall be completed within one year from the time such activity is commenced, provided the Agency may establish a seasonal restriction within which any regulated activity shall be conducted and may require that an activity, once commenced, be completed within a time period of less than one year and further provided the Agency may extend: (1) the time period of the original permit provided such period shall not extend beyond ten years from the date such permit was granted, or (2) the time period within which an activity, once commenced, is required to be completed under this section.
2. The Commission or its designated agent must be notified in writing no later than 48 hours prior to the commencement of permitted activities, and upon completion of said activities.
3. The burden to extend the approved timeframe for the regulated activity (and the time period for the original permit) is on the Permittee; the Town of East Windsor is not required to give notice of the permit's expiration.
4. This permit shall not be assigned or transferred without the approval of the Agency.
5. This document shall be included in all construction contracts and sub-contracts dealing with the work proposed and shall supersede all other contract requirements.
6. During the construction phase, the applicant shall be responsible for maintaining a copy of this permit at the site.
7. The Permittee shall permit the Chairman of the Inland Wetland Agency, or its authorized representative(s) or designee(s) to make periodic inspections at any time deemed necessary in order to assure that the activity being performed under authority of this Permit is in accordance with the terms and conditions prescribed herein.

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8. Prior to the start of construction, adequate erosion and sedimentation control measures shall be implemented, and shall be maintained throughout the entire construction phase in accordance with the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control until the site has become stabilized with permanent vegetative cover. The construction site shall be left in a stable condition at the close of each day. An adequate stockpile of erosion control materials shall be on site at all times for emergency or routine replacement and shall include materials to repair silt fences, haybales, stone-riprap filter dikes or any other devices planned for use during construction. Additional erosion control measures are to be installed as directed by the Town Staff if field conditions necessitate.
9. These permit conditions apply only to the work approved by this permit. Any other work to be done within the area of regulatory interest shall require the filing of a new or modified Inland Wetlands Application for consideration by the Commission.
10. If any alteration of the wetland/resource area does occur, the Commission shall impose such measures as it finds necessary to protect and restore those areas.
11. All temporary barriers, including erosion and sedimentation controls are to be removed (in suitable weather conditions) upon completion of the project.
12. A copy of the As-Built plan shall be submitted to this Commission/Wetland Agent upon completion of the project. The as-built will be reviewed by the wetland agent and verified in the field.
13. The Commission reserves the right to impose additional conditions on any or all portions of this project that could impact an area of regulatory interest under the Inland Wetlands and Watercourses Regulations.

Additional Condition:

- 14. That the wetlands area labeled 114 – 120 shall be labeled/noted as a Conservation Easement.***

Osborn moved/Sawka seconded/VOTE: In Favor: Unanimous

OLD BUSINESS: None.

**MOTION: To MOVE TO THE ADDED AGENDA ITEM MISCELLANEOUS/2.
North Road Sewer Phase II.**

Osborn moved/Sawka seconded/VOTE: In Favor: Unanimous

MISCELLANEOUS/2. North Road Sewer Phase II:

Appearing to discuss this Item of Business was Mr. Jay Ussery, of J. R. Russo and Associates, representing the East Windsor Water Pollution Control Authority (WPCA).

Mr. Ussery is present to discuss problems which have surfaced with the Department of Transportation (DOT) regarding construction of the east end of Phase II of the North Road Sewer Expansion. The project was originally designed, and approved by DOT, to go into the eastbound lane of Route 140/North Road to avoid wetlands disturbance. Mr. Ussery reported they took advantage of the repair work being done on the hill at the intersection of Route 140/North Road and Main Street, Broad Brook and moved construction of this phase of the sewer project to this location while portions of North Road were closed to allow the repair work on the hill. During work for phase II of the sewer project Alan White, of DOT, became caught up in a traffic delay for 6 minutes; that resulted in Mr. White declaring they were NOT to work any further within the road area of Route 140 but were instead to work within the right-of-way along the edge of the road. Mr. Ussery reported there are issues with that requirement, which is why they didn't propose that the work be done in the right-of-way when they designed the project. Approximately 1,000 feet of roadway is involved in project redesign. Mr. Ussery described some of the problematic issues with Mr. White's directive:

- When heading westerly from Melrose Road at the fork with Route 140 there are 3 large mature trees at 208 North Road which the property owners didn't want removed.
- There are a series of drainage ditches along the road; the ditches were flagged along one side of the road as wetlands but were not flagged on the other side. The flagging is being reviewed by John Ianni.
- The property being reviewed for revisions begins with the property of Mr. LaFleur at 222 North Road; he has had issues with his drainage ditch in the past and has appeared before this Commission with an application for work within that area which has already been completed.
- The next house, moving westerly along North Road (220 - Mr. Elliott), also has a drainage ditch along the property frontage which includes a driveway crossing. That drainage area would be considered a wetlands as well.

Mr. Ussery reported he met with DOT today. To accommodate all parties Mr. Ussery, representing the WPCA, indicated they would like to stay out in the street/North Road/Route 140 to save the mature trees, and would then come back into the shoulder but this work would occur on the edge of the existing drainage ditch and would cause significant wetlands disturbance.

Mr. Ussery reported he has discussed this directive with Wetlands Agent Newton, who has advised him the revision of the work would require that he return to this Commission for a permit modification. Wetlands Agent Newton has asked David Askew, of the Hartford County Soil and Conservation District, to inspect the area also.

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Mr. Ussery submitted the following photos of existing property conditions:

1. Looking east of the area where the sewer would come off the shoulder and would impact the ditch of Mr. French at 216 North Road.
2. Shows the same drainage ditch along property at 216 North Road owned by Mr. French and 220 North Road owned by Mr. Elliott – both properties are impacted by the existing drainage ditch.
3. Looking directly along ditch along driveway of Mr. LaFleur and Mr. Elliott.
4. Further down where the ditch crosses the culvert at Mr. Elliott's property; yellow marker shows crosswall where it crosses. John Ianni calls this area wetlands.
5. The same area as the previous photo but further to the east; it is still wetlands by soil type but people are maintaining it and mowing out to the road.
6. The grass area at Mr. LeFleur's property.
7. Water coming off parallel to the driveway between Mr. Elliott and Mr. LaFleur.
8. Mr. LaFleur's half-pipe looking back into the lot; the required revision would mean disassembling the headwall .

The Commission acknowledged the State's authority but cited complaints would be incurred by the homeowners. Wetlands Agent Newton felt Mr. White's requirement is ridiculous as this dictum is against everything the Commission is charged to protect, and is not a feasible and prudent alternative to the approved design. These people already complain about the drainage; this revision is problematic. Although it will require filling of the wetlands temporarily it will cause significant disturbance to accomplish the required change. She understands Mr. White's annoyance sitting in traffic for 6 minutes but she reiterated his requirement is against the Commission's charge to protect wetlands; she has sent an e-mail to the Department of Water Resources.

Commissioner Sawka questioned the amount of time to do the required work? Mr. Ussery suggested it might take 2 weeks as they would not be taking out as much pavement as with the original design. Mr. Ussery note there could be a cost savings to the revised design which could reach 6 figures. Wetlands Agent Newton suggested the only advantage to the redesign is the area will probably drain better. Mr. Ussery reported that Wells Road fell apart as they went through there. The Public Works Department wants to repave Wells Road so any cost savings from this change will go to repaving Wells and Rolocut Roads. Chairman Savaria noted the Commission can't consider the financial aspect of the change but he concurred with Wetlands Agent Newton that this situation is ridiculous. Mr. Ussery cited his frustration; they decided to do that section of North Road because North Road was already shut down to do the repairs at the hill at Route 140/North Road going into Main Street, Broad Brook. Mr. White required that they pull out a manhole which was being installed while Mr. White sat in traffic; that work will have to be redone. Mr. Ussery cited that the project as they originally designed it went through the entire DOT approval process before Mr. White's involvement, the contract was awarded as was required, and now everyone is back to essentially a re-design.

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LET THE RECORD SHOW Selectman Nelson arrived at 7:45 p.m.

Discussion continued regarding the timeline for re-design, and re-approval as a plan modification through Town agencies. Mr. Ussery suggested if this takes some time to resolve they will return to work at Rolocut Road. It was estimated approximately 250' of wetlands will be disturbed, but can be restored; drainage along that area of North Road *may* improve. Commissioner Osborn noted most of the water collecting in the ditch comes off North Road, which was the reason for creating the ditch. Wetlands Agent Newton reiterated this project revision goes against everything the Commission is charged to protect but she acknowledged the wetlands is not a habitat area. Mr. Ussery concurred; the wetlands function is drainage.

Discussion followed regarding the State's power to stop work. Wetlands Agent Newton cited language in the project documents which requires that the road be kept open. Mr. Ussery reported they suggested detouring traffic through Rolocut Road but they were advised detours can't involve Town roads.

Discussion followed regarding the need for a Special Meeting. Staff and Mr. Ussery will coordinate review of the wetlands with Mr. Askew and Mr. Ianni and determine an application resubmission date from there.

MISCELLANEOUS/1. Wetlands Fee Ordinance:

Wetlands Agent Newton provided the Commission with three documents which involve the proposed Wetlands Fee Ordinance. She has made minor modifications which include:

- **Schedule of Fines** - bases fines on a sliding scale based on the activity and disturbance involved.
- **Policy for Enforcement/Citation** – adds language to allow the Wetlands Agent to take action prior to Commission review; agent's actions are appealable.
- **Ordinance** – added language which requires the agent to be present at violation hearings.

Wetlands Agent Newton advised the Commission the Zoning Compliance Ordinance does work; compliance is obtained 90% of the time and most people never pay a fine. One repetitive violators end up paying fines.

AGENT DECISIONS: None.

STATUS REPORTS:

Wetlands Agent Newton reported the Commission should be receiving the annual report on Newberry Village from George Logan – perhaps for the August Meeting.

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VIOLATIONS: None.

CONFERENCES/SEMINARS/TRAINING:

Wetlands Agent Newton provided the Commissioners with handouts she received at Session II of the DEEP Training, which include:

- **Legal and Administrative Updates** – discussion of the approval process.
- **Authority to Condition Permits** – review of appropriate approval conditions. No “after-the-fact” Permits can be issued; Cease and Correct Order should be issued, violator must come through with a plan modification
- **Emergency Authorizations** – see documentation.

CORRESPONDENCE: None.

GENERAL BOARD DISCUSSION:

- Wetlands Agent Newton advised the Commission that she, Town Engineer Norton, and Joe Sauerhoeffer visited Merlot on the Water on Depot Street in response to a complaint presented by Commissioner Roloff at the June Commission Meeting. After inspecting the property Wetlands Agent Newton reported she and the others mentioned found no dumping of grass or concrete, or filling, at this location as reported by Commissioner Roloff. Wetlands Agent Newton reported that, if anything, Mr. Kuhns is employing some of the best management practices in maintaining this site; she then gave examples of his actions at the property.

Wetlands Agent Newton reported she and the others found evidence of vandalism occurring at this location, as someone has been cutting holes in the chain link fence installed by Mr. Kuhns. The destruction of the fence allows people to enter his property from Pond Street and use the Merlot property without Mr. Kuhn’s permission. Wetlands Agent Newton reported the vandalism has been reported and is being investigated.

- Chairman Savaria reported the cardboard boat race scheduled for the past weekend was cancelled due to the high water levels of the Scantic River. The race may be rescheduled for this weekend if the water recedes.

PUBLIC PARTICIPATION (Discussion on non-Agenda items only):

Kathy Pippin, Woolam Road: reported the Commission is doing a great job.

ADJOURNMENT:

MOTION: To ADJOURN this Meeting at 8:05 p.m.

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Osborn moved/Sawka seconded/VOTE: In Favor: Unanimous

Respectfully submitted:

Peg Hoffman, Recording Secretary, Inland Wetlands and Watercourse Commission
(4188)