

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

**Regular Meeting – September 6, 2017**

***MEETING MINUTES***

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

**CALL TO ORDER:** Chairman Baker called the Meeting to order at 7:01 p.m. in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT.

**ESTABLISHMENT OF QUORUM:**

**Present:** Regular Members Alan Baker (Chairman), Richard Osborn, and Rebecca Talamini, and Alternate Member Michael Sawka.

**Unable to Attend:** All Commission Members were present.

**Guests:** Deputy Selectman Richard P. Pippin, Jr., Inland/Wetlands Liaison; Kathy Pippin, Board of Finance.

Chairman Baker noted the establishment of a quorum with 3 Regular and 1 Alternate Members as noted above. All Regular members will sit in on votes this evening. .

Also in attendance was Wetlands Enforcement Official/Wetlands Agent Laurie Whitten, and newly hired Assistant Planner/Wetlands Agent/Zoning Enforcement Officer Matt Tyksinski. Wetlands Agent Whitten introduced Mr. Tyksinski to the Board;

**PLEDGE OF ALLEGIANCE:**

Everyone stood to recite the Pledge of Allegiance.

**AGENDA ADDITIONS:** None.

**APPROVAL OF MINUTES/1) July 12, 2017 Special Meeting:**

**MOTION:** To APPROVE the Minutes of Special Meeting dated July 12, 2017 as presented.

**Talamini moved/Osborn seconded/DISCUSSION:** None.

**VOTE: In Favor: Unanimous (Baker/Osborn/Sawka/Talamini)**

**PUBLIC HEARINGS:** None.

**CONTINUED PUBLIC HEARINGS:** None.

**TOWN OF EAST WINDSOR**  
**INLAND WETLANDS WATERCOURSE AGENCY**  
**Regular Meeting – September 6, 2017**  
**MEETING MINUTES - Draft**

2

**NEW APPLICATIONS TO BE RECEIVED:** None.

**NEW BUSINESS: 1) Application 07-2017/M & L Development Corp – (No Street Number) Wells Road, approximately 1500 feet south of Rolocut Road** – Request to conduct regulated activities to construct single family home. Zone A-1; Map 115, Block 28, Lot 031. (*Deadline for decision 10/5/2017*)

Chairman Baker read the description of this Item of Business. Joining the Board were Jay Ussery, of J. R. Russo & Associates, and Dan Merrigan, of M&L Development, and Richard Zulik, Soil Scientist.

Mr. Ussery reported this proposal is an application to conduct regulated activities to construct a single family home across from Skylark Airport. Mr. Ussery recalled that Attorney Mark Barbieri and Gary Merrigan appeared before the Commission for an informal discussion several months ago regarding this same parcel.

Mr. Ussery reported the property has been in the same ownership since the 1950s. The owners would like to sell the parcel, and the Merrigan's are interested in making a purchase. Mr. Ussery gave a description of the location of the parcel, which is adjacent to a tobacco field across from Skylark Airport; 2 existing homes are located to both the south and north of the subject parcel. Mr. Ussery suggested those properties were similar in condition to this property prior to construction of those homes; the lots have been built up with fill. Mr. Ussery reported that Mr. Zulik has delineated the wetlands. There is an area towards the road which is wetlands. They looked at options to limit the area of disturbance. The first option is a home constructed on a slab, with living space on the second floor and a garage and a small living space on the bottom floor. The dwelling would be lengthwise on the lot, with the garage door facing the road. The first option would create 4,900 square feet of wetlands disturbance for the driveway and grading around the driveway. This option would provide a yard area in the rear. They are also providing an alternate plan with a house facing the street. The alternative option would create 5,700 square feet of wetlands disturbance. A culvert will be installed under the driveway; that culvert ties into a 12 inch pipe under Wells Road which crosses to the other side. A sewer lateral installed a couple of years ago. A well will be installed in the rear to provide water service. They have included a turn-around in the driveway so the owner wouldn't have to back out onto Wells Road. Mr. Ussery reported they are also showing a fence along the limit of the clearing around the entire lot to prevent intrusion into the wetlands. Mr. Ussery recalled that they created a similar situation with a lot on Winkler Road. On that lot they also showed a wetlands buffer of plantings. They are not proposing that buffer on this lot; that would have to be done in the field by Mr. Zulik to create a buffer along the tree line.

Mr. Zulik, Soil Scientist, joined the Commission. He reported he's been working on this lot for some time. They looked at prudent and feasible alternatives but there are not a lot

**TOWN OF EAST WINDSOR**  
**INLAND WETLANDS WATERCOURSE AGENCY**  
**Regular Meeting – September 6, 2017**  
**MEETING MINUTES - Draft**

3

of options for this lot. Mr. Zulik suggested minimizing the clearing would be the best option. The soils are wetlands soils, Witman and Scarboro. In his report he talked about values and functions; he feels the biggest thing is his conclusion – the wetlands provide minimal function because it's a small lot in which they are proposing under 5,000 square feet of disturbance. The wetlands will go away. He can't tell the Commission that there won't be any negative impact; he agrees to fitting additional plantings into the plan. The biggest function in the wetlands is recharge; there is a sandy underlying area and an aquifer which will continue to exist under the house and driveway.

Commissioner Osborn questioned if the tobacco lot next door had been tested; if so, would that be the same soils as this lot? Mr. Zulik replied negatively. Commissioner Osborn questioned that the wetlands were created? Mr. Zulik suggested they were completely disturbed and altered by the road and the abutting properties; he suggested the properties to the north have been built up. Commissioner Osborn questioned that that was why the wetlands are there? Mr. Ussery indicated that the road is higher than the lot; the pipes that cross under the road prior to the sewer installation were in bad shape because they were collapsing. It was dammed up to some extent. When the sewers were put in there was 7 to 8 inches of pavement in the road. Mr. Ussery indicated they have pulled the house forward to limit the wetlands disturbance. Mr. Zulik reported they couldn't push the house back because they need to drill a well.

Mr. Ussery suggested the house meets the minimum square footage requirements for the Zoning requirements at 1200 square feet; it's being built on a slab with a garage underneath the upper stories. He noted they considered constructing a 2 story Cape but eliminated that design because the Cape would include a basement.

Chairman Baker questioned how the water flows today vs. after construction? Mr. Ussery indicated the water flows from the back across the lot towards the road; the water goes in a westerly direction. A swale will direct the water from the back to the culvert under the road. They haven't changed the direction of the flow, but have routed it around. They are not blocking any water. The property drains better now than 5 years ago. Chairman Baker questioned if there was riprap there now? Mr. Ussery replied affirmatively, noting there had been corrugated metal pipes under the road previously that had rotted. Chairman Baker questioned if the flow will handle the impervious flow, and will the pipe take it? Mr. Ussery indicated the pipes were taking the water before; this small amount of impervious area won't change the amount of discharge into the ground. Mr. Ussery indicated he didn't see any real change.

Commissioner Sawka questioned if the design was a raised ranch? Mr. Ussery replied that it was. Commissioner Sawka questioned that the living space would be upstairs? Mr. Ussery replied affirmatively

**TOWN OF EAST WINDSOR  
INLAND WETLANDS WATERCOURSE AGENCY  
Regular Meeting – September 6, 2017  
MEETING MINUTES - Draft**

4

Chairman Baker referenced Mr. Ussery's previous comment about another lot on Winkler Road previously approved which included a fence to mark the wetlands. In that case the Commission heard a complaint from the owner that the fence was never built; Chairman Baker questioned how the Commission can ensure that the fence installation happens? Mr. Ussery suggested in the previous case the fence was a condition of approval and was a requirement at the time of the CO. Chairman Baker suggested that was the case with the Winkler Road lot but it wasn't done. Wetlands Agent Whitten suggested the Commission could make this requirement a condition of approval; when they come in for the Zoning Permit staff would make sure the condition is complied with prior to the issuance of the CO. She suggested that if they wanted the CO in January and the grass wouldn't be growing at that time staff would require a bond for the fence and the landscaping. Chairman Baker suggested that was the same situation as last time but the bond was released. Chairman Baker cited the importance of the fence as when a new owner moves in they might want a pool or to pile snow in that area; they wouldn't have attended the meeting and be aware of this discussion. Discussion continued regarding adding a Conservation Easement to the plan. Mr. Ussery felt that was a reasonable option; Mr. Merrigan initially disagreed. Chairman Baker reiterated activity in the wetlands area several years approval of the lot often occurs; the Conservation Easement, which defines the boundaries, gives the Commission the authority to prevent activity in that area in the future. Wetlands Agent Whitten noted an owner couldn't do any clear cutting or other activity in that area because it's wetlands. The Commission offered Mr. Ussery a recess to discuss options with his client.

**MOTION: To TAKE A FIVE MINUTE BREAK.**

**Talamini moved/Osborn seconded/DISCUSSION: None.**

**VOTE: In Favor: Unanimous (Baker/Osborn/Sawka/Talamini)**

The Board RECESSED at 7:30 p.m.

**MOTION: To RECONVENE at 7:34 p.m.**

**Talamini moved/Osborn seconded/DISCUSSION: None.**

**VOTE: In Favor: Unanimous (Baker/Osborn/Sawka/Talamini)**

Mr. Ussery reported the applicant will offer a Conservation Easement along the fence line. He would like to include passive recreation and the ability to clean up debris, such as a tree falling. Wetlands Agent Whitten noted the standard Conservation Easement allows for grounds maintenance. Mr. Ussery reiterated the applicant will offer the Conservation Easement which he will add to the plan.

**TOWN OF EAST WINDSOR  
INLAND WETLANDS WATERCOURSE AGENCY  
Regular Meeting – September 6, 2017  
MEETING MINUTES - Draft**

5

Chairman Baker called for additional questions; the Commission had no further comments.

**MOTION: To APPROVE Application 07-2017/M & L Development Corp – (No Street Number) Wells Road, approximately 1500 feet south of Rolocut Road – Request to conduct regulated activities to construct single family home. Zone A-1; Map 115, Block 28, Lot 031, with the 14 Standard Conditions, and one Additional Condition:**

**This approval is granted subject to conformance with the referenced plans (as may be modified by the Conditions) and the following conditions:**

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**REFERENCED PLANS:**

- Plot Plan Prepared for M & L Development Corp. , by J. R. Russo & Associates, East Windsor, CT., Dated August 1, 2017, Sheet 1 of 2.
- Erosion and Sedimentation Control Notes & Details, Prepared for M & L Development Corp., by J. R. Russo & Associates, East Windsor, CT., Dated August 1, 2017, Sheet 2 of 2.

**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 OR Agent.

**TOWN OF EAST WINDSOR**  
**INLAND WETLANDS WATERCOURSE AGENCY**  
**Regular Meeting – September 6, 2017**  
**MEETING MINUTES - Draft**

6

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, hay bales, 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.
14. The permit holder will submit a start work notice and contractor's compliance statement to the Wetlands Agent prior to starting any work authorized by this permit. Copies are attached.

Additional Condition:

15. The Conservation Easement, including fence, as proposed by the Applicant is to be shown on the plans.

NOTE: Extensions of time may be granted if a request is made prior to the expiration of the regulated activity and/or permit

**Talamini moved/Sawka seconded/DISCUSSION:** Chairman Baker indicated the Commission has rejected the alternative plan as it isn't feasible.

**VOTE: In Favor: Unanimous (Baker/Osborn/Sawka/Talamini)**

**MOTION: To TAKE THE AGENDA ITEMS OUT OF ORDER to hear MISCELLANEOUS, Item 1 Trolley Museum – Informal discussion – placement of shed.**

**Talamini moved/Osborn seconded/DISCUSSION: None.**

**VOTE: In Favor: Unanimous (Baker/Osborn/Sawka/Talamini)**

**MISCELLANEOUS: 1) Trolley Museum – Informal discussion – placement of shed:**

Chairman Baker read the description of this Item of Business. Mr. Ted Coppola, Chairman of the Trolley Museum (Connecticut Electric Railway Association), joined the Commission.

Mr. Coppola reported the Museum had originally planned to build a 10 foot by 20 foot shed adjacent to the right-of-way to store materials; the shed was to be enclosed by an 8 foot chain-link fence as the Museum has had problems with vandalism of metal materials. They have now decided to reduce the shed to an electrical cabinet but still include the fenced in area. Mr. Coppola recalled a previous situation in which trolley cars were vandalized and brass from the cars was stolen. They are proposing the 8 foot fence to prevent vandalism. The location of this proposed cabinet is beyond Borrup Road on the northeast side of the trolley tracks.

Chairman Baker questioned the Commission if this work could be reviewed and approved by Wetlands Agent Whitten? Wetlands Agent Whitten noted they would need to install silt fencing before they start any work. Chairman Baker requested Mr. Coppola to file a Wetlands Application; the Commission agreed to waive the Wetlands Fee while the applicant will need to pay the State Fee.

**TOWN OF EAST WINDSOR  
INLAND WETLANDS WATERCOURSE AGENCY  
Regular Meeting – September 6, 2017  
MEETING MINUTES - Draft**

8

**MOTION:** To APPROVE by general consensus an Agent Decision for Application #08-2017 – Connecticut Electric Railway Association, and to WAIVE the Wetlands Fee.

**Talamini moved/Osborn seconded/DISCUSSION: None.**

**VOTE: In Favor: Unanimous (Baker/Osborn/Sawka/Talamini)**

**MOTION:** To GO BACK TO THE POSTED AGENDA ORDER.

**Talamini moved/Osborn seconded/DISCUSSION: None.**

**VOTE: In Favor: Unanimous (Baker/Osborn/Sawka/Talamini)**

**OLD BUSINESS:** None.

**NEW BUSINESS/2) Newberry Village – Review of 2017 REMA Vernal Pool Monitoring Report:**

Chairman Baker reported the good news is the spotted salamanders are coming back at the Newberry Road location. Wetlands Agent Whitten noted that the wood frogs in the area were decimated due to the cold weather, but some did hatch.

Chairman Baker reported he had visited the site recently; he suggested advising the builder to reinstall some of the silt fence before the Winter season. Much of the fence was disturbed because of the filling. Wetlands Agent Whitten noted the builder is now using wood chips. She will do a site inspection with Mr. Tyksinski.

**AGENT DECISIONS:** See discussion above re: Trolley Museum

**STATUS REPORTS: 1) Melrose Bridge Update:**

Wetlands Agent Whitten reported that no one has contacted her to assist them with installation of silt fence. She noted pieces of hay mat have been put on the hillside but they need to add more.

Chairman Baker noted this is Town property; apparently the volunteers from the American Heritage River Commission or the DPW did, or didn't, do erosion control work at the site. Commissioner Talamini felt circumstances caused the work to be done in a rush.

Discussion followed regarding the use of wood chips. Chairman Baker reported success with chips holding slopes; Wetlands Agent Whitten disagreed with the use of wood chips as she suggested they'll end up in the river. Commissioner Osborn recalled a similar situation where a resident used wood chips on the bank of their property and they washed into the Scantic River on Mill Street. Chairman Baker reported that since the berm was

**TOWN OF EAST WINDSOR  
INLAND WETLANDS WATERCOURSE AGENCY  
Regular Meeting – September 6, 2017  
MEETING MINUTES - Draft**

9

removed at the Melrose Bridge the water from the parking lot is making a channel and eroding the embankment into the river. Wetlands Agent Whitten noted the current erosion control is a seeded blanket which was installed sporadically so it doesn't blanket the slope.

Wetlands Agent Whitten will discuss the situation with DPW and report back to the Commission at the October Meeting.

**VIOLATIONS: 1) Show Cause Hearing – Connecticut Mulch/Cease and Desist Order** – Unpermitted activity in Upland Review Area and Wetlands – Violation of Section 6.1. North Road/Route 140, B-3 Zone; Map 115, Block 15, Lot 021.

Chairman Baker reported he and Commissioner Talamini visited the site yesterday and took photos of the current condition of the property. Chairman Baker reviewed the various photos, noting the site appears to be stabilized. They've planted a variety of grasses and maple and oak trees are coming back. It appears they did a good job and followed best management practices.

The Commission considered what to do with the pending application. After repeated requests for a plan nothing was submitted to support the after-the fact application. Wetlands Agent Whitten noted they never appeared before the Commission with an application to install the bridge within this parcel. A Cease and Desist Order remains outstanding on this parcel.

**MOTION: To DENY WITHOUT PREJUDICE Application #02-2017 – Connecticut Mulch/Cease and Desist Order – Unpermitted activity in Upland Review Area and Wetlands – Violation of Section 6.1. North Road/Route 140, B-3 Zone; Map 115, Block 15, Lot 021.**

**Talamini moved/Osborn seconded/DISCUSSION: Wetlands Agent Whitten reiterated they never applied for a permit to install the bridge or the path in from road. They have also widened an existing 3 to 4 foot area and partially cleared some of the upland area. It was noted that some of the area they've cleared connects to a similar parcel they own in Enfield. The East Windsor parcel includes a larger area which could be developable. Chairman Baker and Commission Talamini felt everything looks natural now; Chairman Baker felt the site is remediating itself. .  
**VOTE: In Favor: Unanimous (Baker/Osborn/Sawka/Talamini)****

**Chairman Baker noted staff should send a letter releasing the Cease and Desist Order.**

**CONFERENCES/SEMINARS/TRAINING:** Nothing presently available.

**CORRESPONDENCE:** None.

**TOWN OF EAST WINDSOR  
INLAND WETLANDS WATERCOURSE AGENCY  
Regular Meeting – September 6, 2017  
MEETING MINUTES - *Draft***

10

**GENERAL BOARD DISCUSSION:**       None.

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

No one requested to speak.

**ADJOURNMENT:**

**MOTION:**    **To ADJOURN this Meeting at 8:31 p.m.**

**Talamini moved/Osborn seconded/VOTE: In Favor: Unanimous**

Respectfully submitted:

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Peg Hoffman, Recording Secretary, Inland Wetlands and Watercourse Commission