

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

Regular Meeting

Wednesday, February 1, 2023

7:00 p.m.

Small Meeting Room

Town Hall, 11 Rye Street,

Broad Brook, Connecticut

(In-person)

AND

Meeting held via ZOOM Teleconference

Meeting ID: 714 897 1799

Minutes Heading: MEETING MINUTES

********Minutes are not official until approved at a subsequent meeting********

I. CALL TO ORDER – 7:00 p.m.:

Chairman Talamini called the February 1, 2023 Regular Meeting of the East Windsor Inland Wetlands and Watercourse Agency to order at 7:00 p.m. in the small meeting room, Town Hall, 11 Rye Street, Broad Brook, CT, as the John Daly, Jr. Meeting Room was occupied by another Board or Commission. The Meeting is also available via remote access.

Present: Regular Members Rebecca Talamini (Chairman), Richard P. Pippin, Jr. (Vice Chairman), and Alternate Member Mike Sawka were present at the in-person meeting, Regular Member Kurt Kebschull joined the Commission remotely

Unable to Attend: Regular Members Alan Baker and Richard Osborn.

Guests (In person): Inland Wetlands Agent/Zoning Enforcement Officer Danielle Boudreau hosted the meeting. Also present in person were: Tim Coon, of J. R. Russo & Associates, representing K & H Properties, and Herb Holder, owner of K & H Properties; Kathy Pippin.

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Remote Guests (*as identified on meeting participation list*): Director of Planning and Development/Planning Director Ruth Calabrese; Deputy Director of Department of Public Works Joe Sauerhoefer; Peg Hoffman, Recording Secretary.

II. ESTABLISHMENT OF QUORUM:

Chairman Talamini noted the establishment of a quorum with 2 Regular Members and 1 Alternate Member in attendance in-person, and 1 Regular Member participating remotely as noted above. All Members will sit in on votes this evening.

III. PLEDGE OF ALLEGIANCE:

No American Flag is available in the small meeting room; the Pledge of Allegiance was not recited this evening.

IV. AGENDA ADDITIONS:

Wetlands Agent Boudreau requested the addition of Application #PZ-2023-03 for 102 Winkler Road, Beebe Landscaping, for a plan for regrading and outdoor storage under **RECEIPT OF APPLICATIONS.**

MOTION: To ADD under RECEIPT OF APPLICATIONS Application PZ-2023-03 for 102 Winkler Road, Beebe Landscaping, plan for regrading and outdoor storage.

Pippin moved/Sawka seconded/DISCUSSION: None

**VOTE In Favor: Kebschull/Pippin/Sawka/Talamini
(No one opposed/No abstentions)**

V. APPROVAL OF MINUTES – November 2, 2022 – Regular Meeting:

Chairman Talamini noted the availability of the Commission's Minutes of the Regular Meeting held on November 2, 2022. She called for comments, or revisions; hearing no request for changes she called for a motion of approval.

MOTION: To APPROVE the Minutes of the November 2, 2022 Regular Meeting of the Inland Wetlands and Watercourse Agency as presented.

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Pippin moved/Sawka seconded/DISCUSSION: None.

**VOTE In Favor: Kebschull/Pippin/Sawka/Talamini
(No one opposed/No abstentions)**

VI. NEW APPLICATIONS TO BE RECEIVED:

1) PZ-2023-3 for 102 Winkler Road, Beebe Landscaping, plan for regrading and outdoor storage:

Planning Director Calabrese, participating remotely, reported this application has just been received and will be discussed at the next Commission Meeting. She is aware that the applicant, Beebe Landscaping, is requesting the addition of a storage yard on Newberry Road which would include a berm and security fence.

MOTION: To RECEIVE application # PZ-2023-3 for 102 Winkler Road, Beebe Landscaping, plan for regrading and outdoor storage.

Pippin moved/Sawka seconded/DISCUSSION: None

**VOTE In Favor: Kebschull/Pippin/Sawka/Talamini
(No one opposed/No abstentions)**

VII. PUBLIC HEARINGS: None

VIII. CONTINUED PUBLIC HEARINGS: None

IX. NEW BUSINESS:

1) As of Right Determination – 81 Windsorville Road, K & H Properties – owner (clearing and grading to expand cropland in the Upland Review Area):

Chairman Talamini read the description of this Agenda item. Present to discuss this application was Tim Coon, of J. R. Russo & Associates, and Herb Holden, owner of K & H Properties.

Tim Coon introduced himself as a Professional Engineer with J. R. Russo & Associates, he noted Herb Holden, of Double H Acres, is with him tonight to explain the proposed activity.

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Mr. Holden reported his farm operation is on Broad Brook Road, in Broad Brook, it's an existing farming operation which they've operated since 1977. Mr. Holden noted a lot of people are familiar with the family name; the farming operation is his passion, and the beef operation is near and dear to his heart. Mr. Holden gave the Commission a synopsis of his education, beginning with his involvement in 4-H, and continuing through college. Mr. Holden indicated raising beef cattle and providing a quality food source for the local community is his intention.

Mr. Holden reported he came back to work on the family farm and assist with the family's trucking company in 2008, in 2009 he started Broad Brook Beef, which is a product of Double H Acres, which is their registered tax ID. They raise the beef cattle from birth to "harvest", meat cuts are processed at a USDA facility and are brought back to the farm for sale (on Broad Brook Road) at their farm stand on Saturdays from 10:00 a.m. to 3:00 p.m. Mr. Holden noted they also work with 6 restaurants, and 2 caterers. Mr. Holden reported the business has grown consistently since its inception, he noted when the pandemic occurred in 2020 they saw an explosion of people looking for a local food source. Mr. Holden indicated business more than doubled, and they continue to see from 25 to 40 people come to the farm stand on Saturdays.

Mr. Holden indicated he was subsequently presented with the opportunity to purchase the property at 81 Windsorville Road, which contains 100 acres, although 35 acres are unusable. The portion sitting behind the Boutin property was heavily mined in the 1930s but there are approximately 65 acres which are decent farmable soils. Mr. Holden reported they've been farming/raising corn at this location since 2021. This site was an old gravel operation many years ago, and the property contains many different elevations. Today, they're submitting a regrading plan which will make all the farmable/tillable soil that's adjacent to Chamberlain Road one evenly sloping field which will increase the amount of farmable land by another 8 acres. Mr. Holden indicated that the additional 8 acres will enable him to produce enough silage to raise another 26 steers, which is enough to increase his annual revenue by approximately \$100,000.00. Mr. Holden indicated he is trying to make his business self-sustainable, which requires that he's able to raise more crops.

Mr. Holden noted the Town's recent loss of agricultural land to solar projects and other development. Mr. Holden suggested he's presenting

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this plan to the Commission which will enable him to continue to be self-sustaining. Mr. Holden turned discussion over to Tim Coon, of J. R. Russo & Associates, LLC to explain the specifics of the grading plan.

Mr. Coon reiterated that the parcel contains 101 acres located at the intersection of Chamberlain Road, which is located to the north, and Windsorville Road, which is located to the west. Referencing the grading plan, Mr. Coon indicated the areas highlighted in yellow represent the existing agricultural area while the white is the wooded area. Mr. Coon noted there's an existing 5 acre field on Windsorville Road, to the east is Spring Glen Brook which is fed by wetlands existing on the site. The wetlands have been delineated by Rick Zulik.

Mr. Coon referenced the fields they are concentrating on, which run up Chamberlain Road. He noted one area considered to be the "toe" of an old gravel operation is a significant drop from the fields to the rear which crosses the wetlands through an existing culvert. Mr. Coon suggested the parcel contains some topographical challenges related to differences in elevation from mounds to the pit areas. He suggested they plan to start grading at the road and go down to the toe of the pit area at a rate of 2 to 3%, except in this area where they need to match the road grade which is about 10%. The proposal includes clearing and grading, the white areas reflected on the site plan will eventually be able to be farmed, which will add 8.2 acres to Mr. Holden's useable cropland.

Mr. Coon noted the brown lines indicate the limits of erosion controls, which include silt fencing and an anti-tracking pad. They'll create a road at the toe of the slope and work into the grades, they'll then load the trucks at that road and take the material away. Mr. Coon indicated the work will be done in 4 phases, each phase containing approximately 6 acres; the topsoil will be set off to the side to be returned to the site at the completion of the project. Mr. Coon indicated they wouldn't remove any topsoil from the site but would be removing the material underneath the topsoil.

Mr. Coon indicated the proposal includes approximately 5.4 acres of work within the Upland Review Area. As a project to expand cropland, Mr. Coon suggested this application falls within Section 4.1.a of the Wetlands Regulations as a permitted use As-of-Right. They are looking for an affirmation of that contention from the Commission.

Chairman Talamini called for questions from the Commission.

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Commissioner Kebschull indicated he had no questions at this time.

Commissioner Pippin suggested this proposal is for a gravel pit which will become farmland when you're done. It's basically going to be a mining operation until it's completed. Mr. Holden reported there will not be processing equipment, or sales, on the property, all the phases will be farmed while they continue this work. Commissioner Pippin suggested material removed under this proposal will be similar to what was found on the Boutin property.

Chairman Talamini suggested her concern with regard to the wetlands was Phase 4, which includes a lot of slope to be regraded; all of that regrading slopes down to the river. She suggested timing of this work is important. Mr. Holden indicated they would start after approval by the Commission.

Commissioner Pippin questioned if the application will be going before the Planning and Zoning Commission as well? Chairman Talamini referenced an e-mail provided to the Commission. Mr. Coon reported they are proposing a Text Amendment to allow this type of use to be considered a permitted use under the Farm Regulations rather than this type of proposal being considered an excavation permit under the current Zoning Regulations.

Wetlands Agent Boudreau indicated Staff is recommending this application comes before the Inland Wetlands Commission as a Permit for the proposed work as it's a smaller part of a more intense project. The plans show the work as the pursuit of expanding agricultural cropland ranging in 2 to 4 feet depths. Wetlands Agent Boudreau suggested that while the work isn't occurring within the wetlands removal of a significant amount of material -200,000 cubic yards – is being proposed in an area adjacent to the wetlands. Staff considers grading and clear-cutting is more than the traditional crop expansion for the overall project. Staff's opinion is that this proposal warrants a regular permit to conduct regulated activity rather than an As-of-Right activity.

Chairman Talamini concurred, based on the amount of material being processed this proposal should be handled as a full permit rather than an As-of-Right determination.

Mr. Coon suggested there's no specification within the Wetlands Regulations regarding the amount of material being removed qualifies this

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as a non-agricultural project. Mr. Coon noted they also contacted DEEP regarding their interpretation of the proposed activity as a farming activity versus a gravel removal activity, which would require permitting for stormwater activities. Mr. Coon referenced DEEP's email response, which was as long as the activity was strictly to regrade the land for crop production the stormwater permit wouldn't apply. DEEP's interpretation is that this proposal is for an agricultural activity, Chairman Talamini requested a copy of the DEEP email for the Wetlands Commission's records.

Commissioner Pippin suggested this could be perceived as an mining/excavation operation. Mr. Holden questioned the issue with the proposal and the amount of material being removed, as they're doing the work in phases. Commissioner Pippin suggested the Town would be getting complaints about the number of trucks going through town and from the adjacent property owners. Chairman Talamini noted 2 areas are being significantly regraded, she questioned the amount of material coming from those phases? Mr. Holden suggested similar yardage would be removed in that area because of the drop in elevation. Commissioner Pippin suggested it would actually be affecting the road elevation. Mr. Holden reiterated their work with the Town to change the Farm Regulations, under which they would dedicate this land for farming for a specific length of time. Mr. Holden indicated he'll continue to farm the additional acreage, which he needs for silage, while this processing operation is occurring. Mr. Coon suggested they feel it's an As-of-Right permit allowed for farming.

Chairman Talamini noted Commissioner Baker, who was unable to attend this meeting, had provided input that he would like to see this go through as a full application.

Commissioner Kebschull, participating remotely, asked if the Agricultural and Conservation Commission were aware of this proposal for Mr. Holden to donate this land? Mr. Holden clarified it wouldn't be a donation, they're working with the Planning and Zoning Commission via Staff to create a Text Amendment under the Farming Regulations to create a deed restriction on the land for possibly 10 years.

Director of Planning and Development Calabrese joined the discussion remotely. She noted Staff met with Mr. Coon and Mr. Holden, who presented a draft of a proposed Text Amendment under the Farming

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Regulations. Planning Director Calabrese suggested that currently, the 200,000 cubic yards triggers Section 8.14 of the Zoning Regulations, it's a large excavation which requires controls on the activity. Staff is trying to find a path for permitting; Planning Director Calabrese indicated this can't be a Staff level sign-off. Planning Director Calabrese indicated discussion would begin on February 14th with the Planning and Zoning Commission. Mr. Coon added that actually excavation of 101 yards, which is a small amount, triggered the same requirements. Their proposal is trying to provide some relief to the farmers. Mr. Coon provided the Commission with a copy of Section 4.1.2 of the Wetlands Regulations

Chairman Talamini noted that information doesn't affect the Wetlands Commission's vote on this proposal. She called for comments from the Commissioners.

Commissioner Sawka suggested this proposal is a long duration operation. Mr. Holden reiterated no processing will occur on site, all material will be hauled off, his goal is to return it to useable farmland. Commissioner Sawka questioned how long that would take? Mr. Holden suggested they could do it in 2 years or 5 years; he reviewed the process again for the Commission.

Commissioner Pippin suggested they were stretching the type of activity. Mr. Holden disagreed, suggesting the regulations allow it. Mr. Holden suggested with other mining operations someone would be open 7 to 5 Monday through Friday – that's not what they're proposing. Mr. Holden noted they're also outside your wetlands region. Mr. Holden suggested this proposal is to remove the topsoil, regrade, take out the fill, return the topsoil, and do a finished slope.

Commissioner Pippin questioned who has authority for controlling the activity, would it be Planning and Zoning? Mr. Coon concurred.

Chairman Talamini felt the Commission needed to consider the application as an As-of-Right permitted activity based on the Wetlands Regulations, and that he's proposing to use the area for farming.

Discussion continued regarding the As-of-Right proposal versus a full application. Commissioner Pippin suggested perhaps Staff should discuss the review process with Management to be sure the Commissions were handling the proposal correctly. Commissioner Pippin questioned if this

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proposal could be postponed or would that affect the application before the Planning and Zoning Commission? Planning Director Calabrese clarified that Mr. Holden and Mr. Coon are appearing before the Planning and Zoning Commission under an informal discussion, no formal application has been received. The Planning and Zoning Commission would be considering a Text Change Amendment as the first step. Commissioner Pippin questioned that a continuation of this proposal wouldn't hurt Mr. Holden regarding timing of the work; Mr. Holden replied negatively. Commissioner Pippin wanted to note the Commission wasn't here to hurt people, but it was here to protect the wetlands and the town.

Chairman Talamini called for a motion to continue the decision.

MOTION: To POSTPONE the As-of-Right decision for 81 Windsorville Road, K & H Properties (owner) for further investigation until the Commission's next meeting.

Pippin moved/Sawka seconded/DISCUSSION: None

**VOTE: In Favor: Kebschull/Pippin/Sawka/Talamini
(No one opposed/No abstentions)**

X. OLD BUSINESS: None

XI. MISCELLANEOUS:

1) DISCUSSION: 113 Tromley Road, Mike Riley - applicant (various improvements/additions to a house in wetlands and URA):

Chairman Talamini read the description of this item of business.

Wetlands Agent Boudreau reported the homeowner is proposing to add an 8 foot by 12-foot enclosed deck/sunroom to the rear of the home. The addition would not have a foundation but would be installed on poles. A little corner of the addition will be in the wetlands while the remainder will be in the Upland Review Area.

Wetlands Agent Boudreau questioned if this required a permit as an Agent Decision or a full application?

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Chairman Talamini suggested the permit could be issued as an Agent Decision; the Commission concurred. (No motion was necessary).

Wetlands Agent Boudreau indicated the resident had 2 additional questions. The first involves an existing shed which he wants to move into the uplands review area, Wetlands Agent Boudreau questioned if that could be approved as an Agent Decision as well? Chairman Talamini and the Commission concurred.

Wetlands Agent Boudreau then noted the resident works on show cars as a hobby and would like to build an additional 2-car garage at the end of the existing driveway next to the home, which is fully in the wetlands although it's already paved. If that's a problem he'll put the garage in the Upland Review Area and create another gravel driveway.

Chairman Talamini suggested the deck and shed would be acceptable as an Agent Decisions if the Commission agrees; the Commission concurred.

Chairman Talamini suggested the resident should file an application for the new garage when he's ready to proceed; the Commission agreed.

(No motions were necessary)

2) UPDATES:

i: Ketchbrook (Near Gravel Solar Pits) – E & S mitigation controls:

Chairman Talamini read the Agenda description.

Wetlands Agent Boudreau noted she and Jay Ussery visited the site in May. Referencing photos taken of the site and a map, Wetlands Agent Boudreau suggested they're concerned with erosion entering Ketch Brook. She indicated the activity is occurring near the property line of Gravel Pit Solar and Mr. Dennis. Wetlands Agent Boudreau indicated she'll make arrangements to meet with Mr. Dennis, and invite Mr. Ussery as well. Chairman Talamini requested Wetlands Agent Boudreau take extensive photos for updated discussion.

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- ii. 232 – 236 Scantic Road South Main Street, Jim Balch-owner (wetlands restoration resulting from violations):

Chairman Talamini read the description of this Agenda item.

Wetlands Agent Boudreau reported Tighe & Bond is creating a plan regarding this restoration project. They're also contacting DEEP and/or the Army Corp of Engineers for input as well.

Planning Director Calabrese added that Tighe & Bond is creating a remediation plan that can be used in a bid package to implement the restoration plan. Mr. Balch is currently paying money towards the remediation, that money is going to the Town Attorney, who is managing payment of any invoices. Going forward, the Town would select a vendor and manage implementation of the remediation work. Planning Director Calabrese noted that during past discussion someone had questioned if Mr. Balch would be hiring the vendor and managing the work on his own, she clarified that the Town would manage the restoration project.

Commissioner Pippin noted the Agenda incorrectly referenced the location address as 232-236 Scantic Road. Wetlands Agent Boudreau concurred, noting the correct address was 232-236 South Main Street.

XII. AGENT REVIEW AND DECISIONS:

1. IWWA 2023-01 Agent Decision: 28 Abbe Rod – Applicant: Town of East Windsor – Installation of lights for a soccer field:

Chairman Talamini read the Agenda description. Joining the Commission remotely to discuss the proposal was Deputy Director of Public Works Joe Sauerhoefer.

Wetlands Agent Boudreau referenced a map she provided the Commission which shows a small portion of the area proposed for the installation of the lights is within the Upland Review Area. She noted they also have to go to the Zoning Board of Appeals (ZBA) regarding the height of the proposed lights. Wetlands Agent Boudreau suggested that pending ZBA approval this proposed work would include a small portion of the underground electrical service would be located within the Upland Review Area.

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Commissioner Pippin questioned why they're proposing to enter around the tobacco shed, which is currently a grassed area, rather than going straight in the driveway? Deputy Director Sauerhoefer hadn't seen the plan being discussed by the Commission, but felt it was done by a company providing information to the Town for other purposes and that contractor didn't have the combination to open the gate and had to go around – that information has been depicted on the plan. Deputy Director Sauerhoefer indicated he'll bring contractors through on the driveway. Deputy Director Sauerhoefer indicated they'll be going out of the electrical shed, trench conduit up to the bathrooms put in a couple of years ago, and the electricity will go out to the 4 poles; they'll do some parking lot lighting as well.

The Commission agreed to handle this work as an Agent Decision, no motion necessary.

XIII. VIOLATIONS: None

XIV. CONFERENCES/SEMINARS/TRAINING: None.

XV. CORRESPONDENCE: None

XVI. GENERAL BOARD DISCUSSION: None

XVII. PUBLIC PARTICIPATION (Discussion on non-Agenda items only): None.

XVIII. EXECUTIVE SESSION – Pursuant to C.G.S. Section 1-200 (6)(b) – pending claims/litigation – Action possible: None

XIX. ADJOURNMENT:

MOTION: To ADJOURN this Meeting at 7:56 p.m.

Pippin moved/Sawka seconded/DISCUSSION: None

VOTE: In Favor: Kebschull/Pippin/Sawka/Talamini
(No one opposed/No abstentions)

Respectfully submitted:

Peg Hoffman, Recording Secretary, Inland Wetlands and Watercourse Commission