

**EAST LYME INLAND WETLANDS AGENCY
REGULAR MEETING MINUTES
JUNE 11, 2018**

MINUTES

Members Present:

Gary Upton, Chairman
Ann Cicchiello, Vice Chairman
Phyllis Berger, Secretary
Harry Clarke
Peter DeRosa
Jessie Baldwin
Todd Bellucci, Alternate (seated)

FILED IN EAST LYME
CONNECTICUT
June 18 2018 AT 2:05 AM (PM)
Bryan Bellucci ATC
EAST LYME TOWN CLERK

Members Absent:

Jack Chomicz
Don Phimister, Alternate
Theodore Koch, Alternate

Also Present:

Gary Goeschel, Director of Planning/Inland Wetlands Agent

CALL TO ORDER:

Gary Upton called the Inland Wetlands Agency meeting of June 11, 2018 to order at 7:05 pm.

PLEDGE OF ALLEGIANCE: Observed

I. **ADDITIONS TO THE AGENDA** – None

II. **PUBLIC HEARINGS** - None

III. **PUBLIC DELEGATIONS** – None

IV. **ACCEPTANCE OF MINUTES**

A. **Meeting Minutes May 7, 2018 Regular Meeting**

Peter DeRosa moved to approve the East Lyme Inland Wetland Agency Minutes of May 7, 2018. Second by Ann Cicchiello. Motion passed 7-0-0.

V. **EX-OFFICIO REPORT** - **Selectman Paul Dagle**

Selectman Dagle reported that there would be a ribbon cutting ceremony on July 21, 2018 for the Niantic Park at the end of Pennsylvania Avenue. It will be in the morning either at 9:00 a.m. or 10:00 a.m. That is East Lyme Day.

The Board of Selectman held a brief discussion on spill mitigation in the Exit 74 area, of 195. The Selectman have taken it under advisement to write a letter to the State requesting if and when Exit 74 is redesigned and upgraded that the design criteria include spill mitigation, there is a watercourse there.

There is a Town Meeting on June 20, 2018 regarding several expenditures.

Park and Recreation is still selling bricks for the walkway.

PENDING APPLICATIONS –

A. Application of Edward J. Watson, Applicant/Owner; 3-lot subdivision of land located at 31 Walnut Hill Road.

Chairman Upton indicated this is the application they Site Walked this past weekend.

Gary Goeschel, Wetlands Agent provided the Agency members with his memorandum, **Exhibit 1**, dated today regarding the proposed subdivision, and reviewed it with the Agency.

He further noted the application was received by the Agency on April 9, 2018; the Agency has 65 days to render a decision, which is June 13, 2018. The Agency scheduled Site Walk meetings on the site on April 7, May 5 and June 9, 2018. The first two were not well attended and the meeting was not called due to a lack of quorum. The June 9, 2018 Site Walk did have a quorum and commenced.

He reviewed item #2 in his memo, indicating the application is complete.

He then reviewed his findings with the Agency, as noted in said memo.

Chairman Upton noted this is the third time they have reviewed the matter, and the Agency members have walked the property, he would like a motion, as he feels they should approve the application.

The Agency reviewed item #5 of said memo regarding the Erosion and Sedimentation Bond, as to the amount. Wetlands Agent Goeschel asked the applicant of the town engineer came up with a dollar amount on the E&S controls. He did not. Therefore the applicant suggested that the Town Engineer determine a bond amount based on cost. Mr. Goeschel suggested they were looking at a bond amount of \$3,000 to \$5,000. He also noted that the public hearing for the re-subdivision is still pending before Planning and is waiting on the Wetlands Agency decision before they can take action.

Jesse Baldwin moved to APPROVE the Application known as “Site Context Map, property of Edward J. Watson for property located at 31 Walnut Hill Road, East Lyme, Connecticut, sheets 1 through 4, dated March 28, 2018 prepared by James Bernardo Land Surveying, LLC, 102A Spithead Road, Waterford, CT 06385 which, is further subject to the following administrative requirements and required modifications to the site plan and other materials submitted in support of this application:

- 1. The Erosion and Sedimentation Control Plan and recommended Construction Sequence shall be followed.**
- 2. Pursuant to the Erosion and Sedimentation Control Plan and construction sequence, notify conservation officer at least 2 days prior to construction to inspect erosion controls.**

3. In areas proposed to be loamed and seeded, a low maintenance lawn such as fescue, which requires minimal application of fertilizers and pesticides, shall be planted.
4. The proposed Limits of Disturbance (LOD) shall be strictly adhered to though out all phases of lot build out and construction.
5. An Erosion and Sedimentation Control Bond in an amount satisfactory to the Town of East Lyme and the Inland Wetlands Agency, its Agent, and Town Engineer shall be posted with the Town of East Lyme.
6. Any proposed Additional work beyond this permit in the wetlands or watercourse or its 100-foot regulated area will require approval from the Inland Wetlands Agency or its certified Agent.
7. Any changes to the site plan listed on this permit requires notification to the Inland Wetlands Agent and may require commission approval - a new plan shall be given to the Inland Wetlands Agent before any additional work begins.
8. No site work shall commence until all applicable conditions are satisfied.
9. Notify Inland Wetlands Agent upon completion of all regulated activities for final inspection.

This approval is specific to the site development plan submitted as the application of "Site Context Map, property of Edward J. Watson for property located at 31 Walnut Hill Road, East Lyme, Connecticut, sheets 1 through 4, dated March 28, 2018 prepared by James Bernardo Land Surveying, LLC, 102A Spithead Road, Waterford, CT 06385." Any change or modification in the plan or development plan layout other than those identified herein shall constitute a new application unless prior approval from the Agency or its Agent is granted.

The applicant/owner shall be bound by the provisions of this Application and Approval. Second by Ann Cicchiello. Motion passed 6-0-1. Todd Bellucci abstained.

John Bialowans Jr. of 61 Walnut Hill Road, East Lyme, point of order. Is what you just voted on for a two lot or three lot subdivision? He isn't sure if there is a misprint in the paper but he brought this up at the Planning meeting as well. He stated that Mr. Goeschel knows about it. Would like to know what was voted. Chairman Upton responded it is a 3-lot as was written on the agenda and there were no known mistakes. Wetlands Agent Goeschel responded there is one existing lot and two new lots. He responded that it would be a planning issue and he would take it up with counsel. The vote would stand here in Wetlands unless there was an appeal.

This would be an issue for Planning. Mr. Bialowans noted that how can you have it both ways. It was noted that Mr. Goeschel already stated it would be on the planning side. Mr. Bialowans stated he knew that.

Mr. Goeschel, Wetlands Agent, stated that there is possibly an error in the Planning legal publication and they are aware of it. They will check with counsel. The applicant may have to withdraw and re-apply. It does not change the substance of the application it is a procedural defect, if it is at all. He will follow up with Town Counsel.

Mr. Bialowans went on to ask why there was no presentation by the Engineer. It seemed as though the Agency already had their minds made up. There was no report by Wetlands. He stated that Mr. Bernardo said his soil scientist made some mistakes on that property; this is what he heard at Planning. This has to be addressed and figured out. He knows the property well.

Chairman Upton stated there was a presentation at the first meeting; there have been two meetings, so this is the third time this agency has seen the application. We've been on site twice. This is not the first time it's being heard. Mr. Bialowans stated it was never on the agenda before. Chairman Upton stated it has been on the agenda twice before. The site walk was on this past Saturday. Mr. Bernardo did come and present. Chairman Upton stated they have done their diligence.

Mr. Bernardo wished to correct Mr. Bialowans statement that he said the soil scientist made mistakes at the Planning meeting. He did not say that.

Ed Lindie, of 35 Walnut Hill Road spoke. He never received a letter from the Agency saying they were checking this property. Where is the road going to go? How can you say you checked it? How did you get there? It is all wet there; he lives next door to it. Are they going to make a new road? Gary Goeschel, Wetlands Agent responded stating that the plan shows a shared driveway between the existing house and one of the new lots. The other new lot will have a driveway cut as it has direct frontage.

B. Twin Valley 23-Lot CDD Re-subdivision, Green Valley Lakes Road; Frank & Rajko Maric Owners, Real Estate Service of CT, Inc., c/o Bob Fusari, Jr., Applicant; Application to conduct regulated activities within the 100-foot upland review area from wetlands and watercourses associated with the construction of a road.

Gary Goeschel, Wetlands Agent, stated the public hearing is scheduled for June 25, 2018 at 7:00 p.m. He noted that this does allow them to open the public hearing within the 65 day window, which is July 4, 2018.

VI. NEW BUSINESS – None

VII. OLD BUSINESS

A. Inland Wetlands and Watercourses Regulations – Update on Status of Changes.

Gary Goeschel, Wetlands Agent stated there was nothing new, as this has been sidelined due to the current applications and the pending litigation. As start moving forward, he and Attorney Zamarka will bring that forward.

VIII. REPORTS

A. Chairman's Report - None

B. Inland Wetlands Agent Report – Mr. Goeschel stated he did not have a report this month. He has not issued any administrative permits since his last report and this is the only Agency issued permit since the last meeting.

C. Enforcement

1. **Cease, Desist and Restore Order; 13 Green Valley Lakes Rd; Thomas & Kristen Chantrell, Owner; Mr. Goeschel stated that the Cease and Desist remains in effect. The owners have agreed to remove the dock by August 31, 2018.**

It has also been brought to his attention that a parcel on Roxbury Road owned by Mel Weiss is currently under some construction or land development. Significant clearing and filling has occurred. Chairman Upton brought this to his attention and he visited the site this morning. He has already issued Mr. Weiss a Notice of Violation, actually two, he has responded to both. The outstanding item is that he needs a stamped and signed survey indicating the activity is outside the review area. The survey he submitted is not stamped and signed by a land surveyor although it does allude to the activity being outside the area. He is working to get a stamped and signed copy. It is a significant land disturbance very close to a wetland and a vernal pool, though he isn't sure of the function of it. He has a pending building permit but there is no Wetlands permit. There is no determination the activity is exempt.

Chairman Upton was concerned because he did not recall anything coming before them and he was aware of the Notice of Violation so he contacted Mr. Goeschel.

The Agency further discussed the work going on there and the history of the property, and fines. Mr. Goeschel indicated that Zoning had been notified of the amount of fill going into the site, and would be addressing it separately.

Phyllis Berger moved to have Gary Goeschel, Wetlands Agent, issue a Cease and Desist to Mel Weiss for the property on Roxbury Road across from the Town transfer station. Second by Harry Clarke. Motion passed 7-0-0.

D. Correspondence - None

IX. ADJOURNMENT

Phyllis Berger moved to adjourn the East Lyme Inland Wetland Agency meeting of June 11, 2018. Second by Peter DeRosa. Motion passed 7-0-0.

Respectfully Submitted

Jennifer Lindo Dashnaw
Recording Secretary

****These minutes are subject to approval at the next monthly meeting**

Town of



East Lyme

P.O. Drawer 519

**Department of Planning &
Inland Wetlands Agency**

*Gary A. Goeschel II, Director of Planning /
Inland Wetlands Agent*

**108 Pennsylvania Ave
Niantic, Connecticut 06357**

Phone: (860) 691-4114

Fax: (860) 860-691-0351

Memorandum

To: East Lyme Inland Wetlands Agency

From: Gary A. Goeschel II, Director of Planning/ Inland Wetlands Agent

Date: June 11, 2018

Re: Application of Edward J. Watson, Applicant/Owner; 3-Lot Subdivision of land located at 31 Walnut Hill Road, East Lyme, CT

Upon review of the above referenced application, the proposed resubdivision plan entitled "Site Context Map, property of Edward J. Watson for property located at 31 Walnut Hill Road, East Lyme, Connecticut, sheets 1 through 4, dated March 28, 2018 prepared by James Bernardo Land Surveying, LLC, 102A Spithead Road, Waterford, CT 06385 and several meetings with the Applicant's land surveyor and Town staff I offer the following:

1. The above referenced application was received by the Agency on April 9, 2018. The Agency had 65-days to render a decision (June 13, 2018). In addition, the Agency's scheduled site walk meetings of the subject site on April 7, 2018, May 5, 2018, and June 9, 2018. The first two were not well attended and the meeting was not called to order due to a lack of quorum. The Agency did have a quorum on June 9, 2018 and walked the site.
2. In accordance with Section 7, Application Requirements, of the Inland Wetlands Regulations the applicant has provided the all the information required by Section 7.5 and the necessary additional information required by Section 7.6, including a proposed alternative and an operations and maintenance plan, stormwater management plan, erosion and sedimentation control plan, and site development plans. As such, the application appears to be complete.

Therefore, based upon my review of the above referenced application and the record before the Agency with respect to this application, I offer the Agency the following findings and suggested motion for discussion:

FINDINGS

Whereas: The Agency may find this application to be in conformance with the Inland Wetlands Regulations of the Town of East Lyme and more specifically based on the following findings:

Whereas: Town staff provided the Agency with comment concerning this application's compliance with local requirements and regulations as well as received testimony from the Applicant.

Whereas: The Application submitted includes all the information required pursuant to Section 7.5 of the East Lyme Inland Wetlands and Watercourses Regulations and includes site plans and engineering reports. As such, the Application submitted in accordance with Section 7.1 of the East Lyme Inland Wetlands Regulations is complete.

Whereas: There is no direct impact on the wetlands or the off-site watercourse as the the construction activities and limit of disturbance will minimized to the extent practicable within the 100-foot upland review area from the on-site inland wetlands and watercourses. Further, there are no proposed activities occurring in the inland wetlands themselves. Therefore, there are no irreversible and irretrievable loss of wetlands or watercourse which would be caused by the proposed regulated activity.

Whereas: The project has been designed to protect the wetlands and watercourses as the building structures, driveways, and drainage structures are designed to be situated outside of the wetlands and located in the upland review area as well as the utilities which are being installed within existing upland areas.

Whereas: Mitigation measures to minimize and mitigate potential impacts from the creation of new impervious surface on the site and to protect the wetlands and watercourses, stormwater management structures such as rain gardens are being proposed which will pre-treat and control runoff, promote groundwater recharge, and reduce thermal pollution.

Whereas: Impacts are mitigated by the implementation of temporary erosion and sedimentation controls as well as stormwater controls throughout all phases of construction.

Whereas: The upland review process does not forbid activity based solely on proximity to wetlands. Rather, the upland review process merely provides a basis for determining whether activities will have an adverse impact on the adjacent wetland or watercourse, and if necessary, regulating them.

Whereas: Pursuant to Section 10.5 of the East Lyme Inland Wetlands and Watercourses Regulations, for the purpose of those Sections (1) "wetlands and watercourses" includes aquatic, plant or animal life and habitats in wetlands or watercourses, and (2) "habitats" means areas or environments in which an organism or biological population normally lives or occurs.

Whereas: Pursuant to Section 10.5 of the East Lyme Inland Wetlands and Watercourses Regulations, a municipal inland wetlands agency shall not deny or condition an application for a regulated activity in an area outside wetlands or watercourses on the basis of an impact or effect on aquatic, plant, or animal life unless such activity will likely impact or affect the physical characteristics of such wetlands or watercourses.

Whereas: Although the proposed construction would pose a substantial intrusion into the upland area, there is no evidence in the record to support a likely adverse impact on the wetlands and watercourse from the proposed upland intrusion.

Whereas: The record before the Agency contains no evidence that the impacts on the wetland and watercourse are adverse and would likely impact or affect the physical characteristics of such wetlands or watercourse.

Whereas: There are no other prudent and feasible alternatives yielding a total of 3-single family building lots located on land properly zoned for this use that would eliminate or further reduce the potential for wetlands impacts. As the proposed activity is of limited duration with no direct or likely adverse impacts to the wetlands or watercourse, it is the preferred alternative.

SUGGESTED MOTION

Based on the above Findings and the RECORD before the Agency, I hereby move to APPROVE the Application known as "Site Context Map, property of Edward J. Watson for property located at 31 Walnut Hill Road, East Lyme, Connecticut, sheets 1 through 4, dated March 28, 2018 prepared by James Bernardo Land Surveying, LLC, 102A Spithead Road, Waterford, CT 06385 which, is further subject to the following administrative requirements and required modifications to the site plan and other materials submitted in support of this application:

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2. Pursuant to the Erosion and Sedimentation Control Plan and construction sequence, notify conservation officer at least 2 days prior to construction to inspect erosion controls.
3. In areas proposed to be loamed and seeded, a low maintenance lawn such as fescue, which requires minimal application of fertilizers and pesticides, shall be planted.
4. The proposed Limits of Disturbance (LOD) shall be strictly adhered to through out all phases of lot build out and construction.
5. An Erosion and Sedimentation Control Bond in the amount of _____dollars in a form satisfactory to the Town of East Lyme and the Inland Wetlands Agency, its Agent, and Town Engineer shall be posted with the Town of East Lyme.
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