

**EAST LYME INLAND WETLANDS AGENCY
REGULAR MEETING MINUTES
October 19, 2020
Remote Participation by ZOOM due to Covid 19
7:00 p.m.**

Present: Gary Upton, Phyllis Berger, Rosemary Ostfeld, Theodore Koch, Kristin Chantrell, Don Phimister (7:11), David Schmitt, Doreen Rhein, Alt., Jason Deeble, Alt.

Absent: Sandy Gignac

Also Present: Gary Goeschel, Director of Planning/Inland Wetlands Agent, Jennifer Lindo, Administrative Assistant, Paul Dagle, Liaison from BOS, Mark Zamarka, Town Attorney **FILED**

CALL TO ORDER:

The meeting started at 7:08

Oct 26, 2020 AT 9 AM/PM
Brooke Johnson ATE
EAST LYME TOWN CLERK

I. ADDITIONS TO THE AGENDA:

MOTION: (Deeble/Schmitt) to add J. Deeble COVID discussion. Vote: APPROVED unanimously.
J. Deeble informed the members that someone he has come in contact with tested positive for COVID and he wanted the people that went on the site walk to be informed. He has been tested and will let all know the results.

II. PUBLIC HEARINGS-none

III. PUBLIC DELEGATIONS:

Barbara Johnston, 35 Seacrest Ave., would like the agency to add a definition of, "clear cutting."

IV. ACCEPTANCE OF MINUTES

- A. Meeting Minutes of August 10 2020 Show Cause Hearing
- B. Meeting Minutes of August 10, 2020 Regular Meeting
- C. **MOTION: (Schmitt/Chantrell) to approve the August 10 2020 Show Cause Hearing and August 10, 2020 Regular Meeting minutes as presented. Vote: APPROVED unanimously.**

V. EX-OFFICIO REPORT

P. Dagle informed the members, the Public Safety Building was approved at referendum and the contract for the work was approved by the BOS

VI. NEW BUSINESS

- A. **Application of Harvest Christian Fellowship of Niantic, for the construction of a Church; Construction of an 8,450 square foot church building, a 72-car paved parking lot, and associated improvements on a 21.7± acre parcel located at North Bride Brook Road, East Lyme Assessor's Map 24.0, Lot 7. Limited clearing, grading and replanting of previously cultivated areas are proposed within a portion of the 100' upland review area. There will be no proposed activity within any wetlands area.**

G. Goeschel stated that members of the agency conducted a site walk to the property. Joe Wren, P. E. presented for the applicant. He stated the site had been cleared and cultivated for a number of years. The access to the site is an easement from the end of the Woodrow Dr. cul-de-sac. The lot is a leftover lot from the Nathan Hale subdivision. He stated that Rich Snarski flagged the wetlands on the site and identified three wetlands. The pond (A) on the property is not a vernal pool as it retains water all year long, although he did find salamander eggs along the edge.

The water main runs along an easement from Woodrow Dr. and exits through Nathan Hale Dr.

All grading and parking lot activity will be outside the upland review area (URA).

There will be minor grading and replanting of a vegetative buffer where cultivation was previously conducted. All of the building and parking lot runoff eventually ends up in the storm water management basin. There will be no curbs on the parking area, crushed stone will border the parking lot and driveway. The water runoff will follow the swale and then into the storm water basin. The driveway will be crowned to direct flow to the roadside swale. The storm water basin is designed for a 100-year storm, the overflow will go into a plunge pool and then approximately 60 ft. to the wetlands. The basins are planted with plugs of vegetation. He stated the current proposal is an improvement from the pesticides that are now going into Bride Brook.

Pastor Randy Hyde, Harvest Christian Fellowship thanked the members for their time and outlined all the community outreach his church conducts.

Scott Long, 34 Legendary Rd., Deacon Harvest Christian Fellowship, stated the location is a beautiful place to get healing for people.

The parking lot will be a low intensity use, mostly used once a week. The capacity of the church is 222. There will be public water but an onsite septic system.

The agency discussed the amount of impact the proposal would cause.

MOTION: (Upton/Chantrell) the applicant, Harvest Christian Fellowship Church be required to go to a Public Hearing due to public interest and that the activity may have significant impact.

G. Goeschel read the reasons why a public hearing should be held, citing significant impact or public interest. He stated there were no petitions submitted asking for a public hearing.

Vote: APPROVED unanimously.

MOTION: (Upton/Koch) to take a five-minute break. Vote: APPROVED unanimously.

(8:36-8:47)

VII. PENDING APPLICATIONS

D. Application of the Town of East Lyme Inland Wetland Agency for a text amendment to amend section 2.1 of the East Lyme Inland Wetland Regulations to change the Definition of a "Regulated Activity" by enlarging the distance of the boundary for a regulated activity from 100' from an inland wetlands and/or watercourse to 500'.

Attorney Mark Zamarka stated the charge of the agency and the usual procedure for public hearings. He informed the members that the decision they make will be highly scrutinized and most likely appealed. The agency needs to state their reason(s) for whatever decision they make, supported by evidence in the record. M. Zamarka directed the members to exhibits, MMMM and NNNN which were submitted by members which point to procedures/roadmap to extend the URA in individual communities and according to the two exhibits the agency has not followed the exhibits and therefore, do not support an increase to the URA.

P. Dagle recommended the agency have their discussion and then let staff and attorney speak. They are not trying to undercut the agency but making sure that whatever decision gets made stands up in court.

T. Koch said that during the public hearing more people were in favor of increasing the URA than opposed.

G. Upton had looked at the record and said there were; 2 people for increasing the URA to 300 feet, 4 people for 400 feet, 7 people generally supporting and 186 for the 500 feet. T. Koch said support does not equate to evidence.

K. Chantrell stated the water quality evidence shows an increase is warranted.

D. Schmitt is not convinced that 500 ft. is right but said it will invite litigation. He questioned whether it was development that decreased water quality.

T. Koch agrees 500 feet is too much, the only time you see the 500 ft. URA, pertains to a particular bog in one town. He proposes the URA should be changed to 300 ft. If the agency were to move

forward on the 500 URA it would waste a lot of money and could backfire to the purpose of the agency.

R. Ostfeld said Exhibit UUU makes the link between surface water and ground water.

D. Phimister is concerned the 500 ft. increase in the URA is not in sync with other municipalities. He questioned how can the agency go forward without legal supporting the evidence. How is the proposed URA to be monitored? He suggested the agency could have considered other recommendations that would have maintained water quality. He read the record and the exhibit which referenced China, submitted by G. Upton, ultimately stated there was no impact to water quality. He said they needed solid evidence and believes they will be sued.

D. Schmitt read a section of the East Lyme Inland Wetlands regulations that allows the agency to consider impacts outside the current URA. P. Berger said she has never seen the agency use that authority to review activity outside the URA.

R. Ostfeld said climate effects water quality and cited Exhibits, ZZZ, BBBB, CCCC and DDDD and VVV.

P. Berger said the town has had the 100 ft. URA on the books for a long time.

G. Upton suggested hiring a third party attorney to look at all the evidence and make an independent determination.

MOTION: (Upton/) to approve the commission hire a third party, an environmentally experienced attorney or legal team to review all documentation and the record and give opinion on evidence.

M. Zamarca said it was the agency's job to make the decisions.

Vote: FAILED due to lack of a second.

T. Koch reminded the members that the Conservation Commission and Natural Resources Commission recommended a 300 ft. URA (Exhibit CCC).

MOTION: (Koch/Ostfeld) to direct town staff to propose a resolution to increase the URA from 100 feet to 300 feet.

T. Koch pointed to Exhibit CCC and said that should be enough evidence to increase the URA from 100 ft. to 300 ft.

Vote: APPROVED. In favor-Upton, Chantrell, Ostfeld, Berger, Koch, Schmitt. Opposed-Phimister. Abstaining-none

R. Ostfeld thought the USGS exhibit should go with the resolution to support an increase in the URA.

- E. Application of Harvest Christian Fellowship of Niantic, for the construction of a Church; Construction of an 8,450 square foot church building, a 72-car paved parking lot, and associated improvements on a 21.7± acre parcel located at North Bride Brook Road, East Lyme Assessor's Map 24.0, Lot 7. Limited clearing, grading and replanting of previously cultivated areas are proposed within a portion of the 100' upland review area. There will be no proposed activity within any wetlands area.**

MOTION: (Upton/Berger) to move the regular meeting from November 9, 2020 to November 16, 2020. Vote: APPROVED unanimously

VII. OLD BUSINESS-none

VIII. REPORTS

A. Chairman's Report-none

B. Inland Wetlands Agent Report

I. Administrative Permits

G. Goeschel informed the agency that he is reviewing administrative permits. He has had discussions with Aces High and instructed them not to mow between the plantings and Latimer Brook.

II. Commission Issued Permits

C. Enforcement

- 1. Cease and Desist: 297 Boston Post Road; Al Smith Owner, Jason Pazzaglia, Other; Outside storage of equipment, construction materials, and the stockpiling of earthen materials including but not limited to yard debris, mulch, woodchips, gravel, topsoil and other woody debris within 100 feet of a watercourse without or in violation of an Inland Wetlands Permit.**

G. Goeschel reminded the agency that two Cease and Desist (C & D) orders were issued but the hearing was cancelled for unknown reasons. Because there was no meeting held within 10 days of issuing the Cease and Desist, the C & D was no longer valid.

G. Goeschel said that J. Pazzaglia has removed more equipment and debris. A site walk is scheduled for November 14, 2020.

G. Goeschel informed the agency that the Pazzaglia, multi family development revised their plans for presentation to the Zoning Commission and moved activity outside the URA. The Inland Wetlands agency did not approve the application when brought before them and it is being appealed by the applicant.

MOTION: (Upton/Chantrell) We would like to see the Pazzaglia application that was previously denied by the agency that has been modified, come before the commission. Vote: APPROVED. In favor-Upton, Chantrell, Ostfeld, Berger. Opposed-Schmitt, Phimister. Abstaining-Koch.

D. Correspondance-none

X. ADJOURNMENT

MOTION (Berger/Ostfeld) to adjourn at 10:41. Vote: APPROVED unanimously.

Respectfully Submitted

**Sue Spang
Recording Secretary**