

**EAST LYME INLAND WETLANDS AGENCY
SPECIAL MEETING MINUTES
November 16, 2020
Remote Participation by ZOOM due to Covid 19
7:00 p.m.**

Present: Gary Upton, Phyllis Berger, Rosemary Ostfeld, Kristin Chantrell, Don Phimister, 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 7:06

NOV 19, 2020 AT 3:52 AM/PM
Brooke Stearns
EAST LYME TOWN CLERK

I. ADDITIONS TO THE AGENDA:

Discuss recommending Gregory McIntyre to the Board of Selectmen as a replacement for Ted Koch. Seat J. Deeble for T. Koch.

MOTION: (Upton/Chantrell) to recommend to the Board of Selectmen to move J. Deeble from an alternate to a full member.

J. Deeble described himself and his qualifications

K. Chantrell asked that D. Rhein also introduce herself and her qualifications.

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

Abstaining-Schmitt. Deeble did not vote

Motion: (Upton/Chantrell) to take item VII, A out of order and discuss it before the public hearings.

Vote: APPROVED. In favor-Upton, Berger, Chantrell, Deeble. Opposed-Phimister, Ostfeld, Schmitt.

VII. PENDING APPLICATIONS

A. Application of the Town of East Lyme Inland Wetland Agency: Application for a text amendment to amend section 2.7 of the East Lyme Inland Wetland Regulations to change the Definition of a "Regulated Activity" by enlarging the distance of the upland review area from 100-feet from an inland wetlands and/or watercourse to 500-feet.

MOTION: (Chantrell/Upton) Based on information from the record and the public hearing the agency approves the resolution to extend the Upland Review Area (URA) from 100 feet to 300 feet.

G. Goeschel read the resolution as follows:

**RESOLUTION AMENDING SECTION 2.1 OF THE
EAST LYME INLAND WETLANDS AND WATERCOURSES REGULATIONS**

WHEREAS, on June 8, 2020, the Town of East Lyme Inland Wetland Agency ("Agency") initiated an Application for a text amendment to section 2.1 of the East Lyme Inland Wetland Regulations ("Regulations") to change the Definition of a "Regulated Activity" by enlarging the distance of the boundary for a regulated activity from 100 feet from an inland wetlands and/or watercourse to 500 feet ("Application"); and

WHEREAS, the Agency has statutory authority to enact and amend inland wetlands and watercourses regulations and to determine the boundaries of inland wetlands and watercourses for the Town of East Lyme; and

WHEREAS, pursuant to General Statutes §22a-42(a) it is the purpose of the Agency to regulate activities affecting the wetlands and watercourses within the Town of East Lyme; and

WHEREAS, it is the purpose of the Regulations, in pertinent part, to preserve, protect and maintain wetlands and watercourses by minimizing their disturbance and pollution, and to maintain and improve water quality in accordance with the highest standards set by federal, state or local authority (§1.1); and

WHEREAS, the Agency has the statutory authority to regulate activities in areas around wetlands or watercourses, commonly known as the Upland Review Area (“URA”) provided such regulation is in accordance with the provisions of the Regulations adopted by the Agency and apply only to those activities which are likely to impact or affect wetlands or watercourses (C.G.S. §22a-42a(f)); and

WHEREAS, §2.1 of the Regulations defines “regulated activity” in pertinent part as any operation within or use of a wetland or watercourse involving the deposition of material, or any obstruction, construction, alteration or pollution of such wetlands or watercourses; and

WHEREAS, §2.1 of the Regulations defines the URA as “... any clearing, grubbing, filling, grading, paving, excavating, constructing depositing or removing of material and discharging storm water on the land within 100 feet measured horizontally from the boundary of any wetland or watercourse ...”; and

WHEREAS, the Agency initiated the Application to amend §2.1 to enlarge the URA from 100 feet from an inland wetlands and/or watercourse to 500 feet; and

WHEREAS, pursuant to C.G.S. §22a-42a(b) and §15 of the Regulations, a public hearing is required for any proposed amendment to the Regulations; and

WHEREAS, the Application was the subject of a properly noticed public hearing that began on July 13, 2020 and was continued to August 10, 2020, after which the public hearing was closed; and

WHEREAS, during the public hearings the Agency listened to hours of testimony. The Agency also submitted into evidence numerous documents and reports in support of its Application; and

WHEREAS, following the close of the public hearing the Agency deliberated and discussed the Application at length and considered all the evidence in the record; and

WHEREAS, during its deliberations the Agency determined that the proposed text amendment should be revised to enlarge the URA from 100 feet to 300 feet rather than 500 feet; and

WHEREAS, the revision from 500 to 300 feet is less onerous than the proposed amendment so that a new public hearing was not required; and

WHEREAS, any amendment to the Regulations must be supported by substantial evidence in the record; and

WHEREAS, enlarging the URA from 100 to 300 feet is reasonably designed to enable the commission to protect and preserve the wetlands located within East Lyme, in fulfillment of its statutory duty; and

WHEREAS the amendment enlarging the URA from 100 to 300 feet is supported by the following substantial evidence:

WHEREAS, Exhibit E, a letter of support from the East Lyme Commission for the Conservation of Natural Resources dated June 4, 2020, recommends “the Review area be extended to at least 300-feet to facilitate expert and nonpartisan review by the Inland Wetlands Agency of development projects that have the potential to degrade town wetlands, surface waterbodies, or underground drinking water aquifers”; and

WHEREAS, Exhibit CCC – Commission for the Conservation of Natural Resources 2018 Drinking Water Report, Exhibit DDD – Letter from Margret Miner Environmental Consultant to Gary Upton, Chairman and Members of the East Lyme Wetlands Agency dated July 13, 2020, Exhibit UUU – USGS 1998 Groundwater and Surface Water A Single Resource, Exhibit VVV- IPCC 2014 Freshwater Resources, Exhibit VVV – Chapter 3 Freshwater Resources, from the 2014 Synthesis Report by the Intergovernmental Panel on Climate Change, support the continued regulation of inland wetlands and watercourses; and

WHEREAS, based on the foregoing, the Agency finds that there is substantial evidence in the record to amend §2.1 of the Regulations to change the Definition of a “Regulated Activity” by enlarging the distance of the boundary for a regulated activity from 100 feet from an inland wetlands and/or watercourse to 300 feet; and

BE IT THEREFORE RESOLVED that based on the foregoing substantial evidence in the record, the Agency hereby AMENDS 2.1 of the East Lyme Inlands and Watercourses Regulations to read as follows:

“Regulated activity means any operation within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetlands or watercourses, but shall not include the specifies activities in section 4 of these regulations. Furthermore, any clearing, grubbing, filling, grading, paving, excavating, constructing, depositing or removing of material and discharging storm water on the land within **300** feet measured horizontally from the boundary of any wetland or watercourse is a regulated activity. The Agency may rule that any activity located within such upland review area or in any other non-wetland or non-watercourse area is likely to impact or affect wetlands or watercourses and is a regulated activity.”

This amendment shall be effective the day after legal notice of same is published.

G. Upton did not believe the memo from G. Goeschel pertaining to the change in the URA should be part of the record.

M. Zamarka cautioned the agency to make sure that the information in the resolution is what the agency wants to be considered upon appeal.

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

II. PUBLIC HEARINGS

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. Upton started the public hearing at 7:51

G. Goeschel read the following exhibits into the record:

Item #	Description	Date
A	Application of Harvest Christian Fellowship for a Wetlands Permit to construct a 8,450 sf church and 72-car paved parking lot	9/8/20
B	Harvest Christian Fellowship Prepared by Indigo Land Design LLC Original Plan Set dated 9/8/2020	9/8/20
C	Legal Ads for the Town Clerk and the New London Day publication	10/27/20
D	Certificate of Mailing	11/5/20
E	Staff Review of East Lyme Zoning Official Mulholland dated 10/29/2020	11/5/20
F	Staff Review of East Lyme Town Engineer Benni dated 11/13/2020	11/13/20
G	Harvest Christian Fellowship Prepared by Indigo Land Design LLC Revised Plans of November 13, 2020	11/13/20
H	Drainage Report revised to November 13, 2020	11/13/20
I	Drainage Map Revised to November 13, 2020	11/13/20
J	Aerial Overlay Map	11/13/20
K	Staff Review of Zoning Official Mulholland dated 11/16/2020	11/16/20

J. Wren, P.E. Indigo Land Designs LLC, informed the agency the notice of the public hearing were mailed out to the abutters.

He reviewed the ariel views of the site from 1934 and the present which showed the area as being cultivated for many years. He said the water quality will be improved due to the water management of the site and the lack of pesticides going into the wetlands.

The footprint of the building will be in the open field.

The stormwater management basins (2) will be vegetated and will require minimal brush clearing. All other trees and shrubs will not be disturbed. All the runoff from the roof top and the parking lot will go through the stormwater management basins which will cleanse the runoff. It then travels over land until it enters into the wetlands.

J. Wren informed the members that R. Snarski evaluated the pond and found some salamander egg masses but the pond is not a vernal pool as it remains a pond all year and does not dry up.

There will be supplemental plantings along the tree line near the URA. The bottom of the basins will be vegetated and there will be landscaping around the parking lot and building.

There will be minor grading near a portion of the URA for parking lot construction.

There will be some clearing around the outlet of the basin to allow overflow water to drain off.

The parking lot will be constructed for 72 cars.

The site has an easement and they plan to connect to town water.

A septic system has been designed and will be placed under the parking lot. There will be no curbing around the parking lot so as to allow the stormwater to be directed into the swales and then to the basins.

The runoff from the building and parking area and some of the driveway will go into a swale and into the larger upper basin. The lower part of the driveway and overflow will be directed to the smaller, lower basin. The water management is a Low Impact Design, (LID).

The line of site will be improved by grading on Woodrow Dr.

Wren informed the members that the plan has been reevaluated and the upper basin has been made smaller and the discharge outlet pulled further back from the wetlands by over 24 ft.

The plans have been revised to show:

- Reduced width of the driveway to 20 ft. as opposed to 25 ft.
- Provide a Level Spreader at the downgrade edge of the Proposed Flared End with Riprap Plunge Pool, originating from the Proposed Stormwater Management Basin.
- a five foot wide rip rap apron on the outlet of the large basin

The Erosion and Sedimentation controls will be a silt fence and hay bales.

Of the 22 ± acres, 4± acres will be disturbed, the rest will be left to go to a natural vegetative state.

R. Snarski, certified soil scientist gave an over view of his findings associated with the pond and his finding that the pond is not a vernal pool.

Paster Randy Hyde, Harvest Christian Fellowship, thanked the members of the agency for their time and reiterated that the church wants to give back to the community and that he has reached out to the neighbors.

J. Wren stated the septic system can be paved over which the public health code allows. He said the closest point of the septic system to the regulated area is 130± ft.

Scott Long, Harvest Christian Fellowship said there will be a basic kitchen, but not a commercial kitchen.

Public Comment

Jimmy Patel, 15 Nathan Hale Dr., wanted to know how high the building would be.

Doug Butkovitch, 2 Woodland Dr., said the majority of the proposed site is wetlands and disputed the statement that it has been cultivated for many years. He questioned the size of the parking lot and its capacity to accommodate cars for 220 people which is the capacity for the church. He wanted to know how to protect the wetlands from oil leaking from cars before going into the wetlands without curbing around the parking lot.

D. Butkovitch said his property floods when there is a significant rainfall, he is concerned with more water running into his property with the proposed plan. He asked why there was not a vegetative barrier plan for the area by Woodrow Dr. He questioned the claim of better water quality. He said he cleans out the catch basin on the road.

Kelsey Janus, 5 Woodrow Dr., agrees with D. Butkovitch on the vegetative barrier. She is concerned about outdoor lighting and said the line of site to the left of Woodrow Dr. is also a problem.

Karen Urban, 1 Woodrow Dr., estimated the number of people who could be accommodated in the building is 390 if all the rooms were utilized. The proposed plan would be a 350% increase of traffic. She looked at the churches website and they offer programs five days a week and up to 2-3 times a day. She is concerned about the ability to get out of her driveway and the impact to the neighbors should be taken in to consideration.

Su Yi, 6 Woodrow Dr., said that there is already standing water in her yard with a significant rainfall event. She is concerned about the safety of her family with the increased traffic and how her home value will be impacted. She is concerned about how the oil from cars would affect her well water.

Xiaoqing Xie, 6 Woodrow Dr., said he visited the East Lyme town hall and the material he viewed said the church was not allowed in that zone.

Steve Wolf, 19 Nathan Hale Dr., was concerned about more cars and the impact of the exhaust from idling cars. He wanted to know who would be responsible for the upkeep of the church if funds dried up to perform the maintenance.

Tyler Cipriani, 269 North Bride Brook Rd., wanted to know why only the salamanders were mentioned and no other wildlife that exists on the property.

Doug Butkovitch, 2 Woodland Dr., cited the draft 2020 POCD and the impact of the alewife spawning in Bride Brook which is fed by the wetlands on the proposed site.

Mike Wisniewski, 5 Woodrow Dr., is concerned about the flooding problem. He said the pond would flood over during heavy rain. He received a special permit years ago to put in a nursery and was required to put a pipe in for drainage. He gets water in his basement. When Eversource put in the gravel road the flooding became worse.

Su Yi, 6 Woodrow Dr., was concerned about flooding in her yard and said after Eversource's recent work the flooding has been worse.

J. Wren responded to the flooding concerns and said the properties of Patel and Wolf are up hill from the site so they would not see any increased flooding from the proposal.

The property has been cultivated in the past when it was leased out.

J. Wren informed the public that the required amount of parking spaces is based on a ratio formula in the zoning regulations. The plan required a 5:1 ratio which would be 45 spaces, the applicant decided to have a 3:1 ratio which is 72 spaces. He said there will be no parking on Woodrow Dr. or surrounding streets. There is no curbing so to allow the water to flow overland and into the catch basins and then infiltrate down to the wetland. If there was curbing they would need to have catch basins which would tie into the town system, adding untreated water to the system.

The water quality basins reduce the velocity of water flow by metering out the water by a ¾" pipe exiting from the basin.

Questions about a vegetative barrier will be addressed by the Zoning Commission.

J. Wren said the pond is a man-made irrigation pond, he referenced the ariel views and showed the pond did not exist on the 1934 view.

He said the alewife could not make it to the pond due to the series of catch basins they would have to navigate. The wooded areas would remain the same and the water quality is enhance due to the LID plan.

J. Wren said there is public water for residents of Woodrow Dr.

Su Yi, 6 Woodrow Dr., is more concerned after hearing the explanation of the plan.

J. Wren said the water will be collected in the basins as opposed to rushing down the slope as it now exists.

Xiaoqing Xie, 6 Woodrow Dr., stated he is reserving his opinion and if something happens in the future they will take action to make a correction.

Doug Butkovitch, 2 Woodland Dr., provide a picture of the flooding in his yard.

Mike Wisniewski, 5 Woodrow Dr., wanted to know if the 300 ft upland review change effects this proposal, G. Upton stated that it does not.

Tyler Cipriani, 269 Bride Brook Rd., is concerned about future plans

Motion: (Deeble/Chantrell) to continue the public hearing to the next meeting. Vote: APPROVED unanimously. (10:15)

The agency took a break from 10:16-10:25

III. PUBLIC DELEGATIONS: none

IV. ACCEPTANCE OF MINUTES

A. Meeting Minutes of October 19, 2020

MOTION: (Upton/Schmitt) to approve the October 19, 2020 Regular Meeting. Vote: APPROVED unanimously.

V. EX-OFFICIO REPORT

P. Dagle informed the members, the BOS approved new body cameras for the police and new cameras for the police cars.

There is an agenda item for the next BOS meeting to appoint a new member to replace T. Koch who resigned.

There was a kick off meeting for the construction of the Public Safety Building.

VI. NEW BUSINESS

A. Brian Lepkowski vs. Town of East Lyme Inland Wetlands Agency et al memorandum of Decision February 25, 2020 reviewed by Mark Zamarka, Town Attorney

M. Zamarka gave background on the lawsuit and presented the decision to the agency.

VII. PENDING APPLICATIONS

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Tabled until the next meeting

VIII. OLD BUSINESS-none

IX. REPORTS

A. Chairman's Report-none

B. Inland Wetlands Agent Report

Administrative Permits-none

Commission Issued Permits

G. Goeschel encouraged the members to read his review/memo on the agencies upland review area, change.

C. Enforcement-none

D. Correspondence

Barbara Johnston letter

P. Berger asked about a zoning approval for 283 Boston Post Rd. and the application to zoning of the North Bride Brook Rd., application the agency denies.

X. ADJOURNMENT

MOTION (Upton/) to adjourn at 10:48. Vote: APPROVED unanimously.

Respectfully Submitted

Sue Spang

Recording Secretary

