

**EAST LYME INLAND WETLANDS AGENCY
REGULAR MEETING MINUTES
DECEMBER 13, 2021
7:00 p.m.**

EAST LYME TOWN HALL, MAIN MEETING ROOM

Present: Kristen Chantrell, Phyllis Berger, Don Phimister, David Schmitt, Gregory McIntire Alt. Doreen Rhein. G. McIntire was seated.

Absent: Sandy Gignac, Alt.,

Also Present: Gary Goeschel, Director of Planning/Inland Wetlands Agent, Attorney John Casey,

CALL TO ORDER:

The meeting started at 7:01

FILED

Dec 17, 2021 AT 10:26 AM/PM

Brianne Stevens ATC
EAST LYME TOWN CLERK

I. PLEDGE OF ALLGIANCE:

The Pledge was recited.

ADDITIONS TO THE AGENDA (note: the agenda was mislabeled as a Special Meeting. This is a regularly scheduled meeting)

MOTION: (Schmitt/Berger) to add under Pending Applications, B: Application of Evan Cooper, owner, for a permit to repair damage to stream as a result of Tropical Storm Henri at 2 Gurley Road, East Lyme.

PUBLIC DELEGATIONS

Donald Danila, 24 Pattagansett Drive, East Lyme said he was looking on the website for materials related to an item on the agenda and could not find any materials posted as of Friday. The materials should be posted at least 24 hours before a meeting.

II. PUBLIC HEARINGS

Application of Kristen Clarke, P.E., for Cold Spring Lot Management, LLC/John Drabik, Owner, for Nottingham Hills Subdivision Phase 5, Prepared for Kristen T. Clarke, P.E., English Harbour Asset Management, LLC, for an 8-lot subdivision of property at 121 Upper Pattagansett Road, East Lyme Assessor's Map 35.0, Lot 44.

The public hearing started at 7:07

Attorney Paul Geraghty informed the Agency that all the outstanding comments have been addressed. There is no proposed activity in the wetlands. The wetlands are 430' from the closest homesite. Richard Snarski who did the initial evaluation of the property has determined there will be no adverse effects from the development. The peak runoff from the property will be reduced by 25% due to design efforts reducing impervious surface and using rain gardens and check dams to direct water into the ground. According to the applicant's engineer the water quality will be improved.

The lots have been given approval for septic by Ledge Light.

Public Comment:

Donald Danila, 24 Pattagansett Drive, East Lyme, President of the Pattagansett Lake Association, said he liked the open space that has been set aside as the property has had little activity over the years. The proposed development will introduce fertilizer, septic systems and pets that will raise the nutrient levels in the lake. He said the stormwater design should reflect the new realities of the increase in storm events with the increase of rain events.

Increase nutrients to the lake increases aquatic algae materials in the lake.

He likes the raingardens but who will maintain them and guarantee they are installed. He does not want to deny residents the use of the lake but any additional buoys, rafts etc. should go through the proper regulatory process.

P. Geraghty reiterated that there are no plans for beach activity at this point in time.

Any rain runoff will go to the rain gardens and check dams will divert water into the woods or sheet flow to street

The septic systems are GST designs which are the most current designs accepted by the State of Connecticut and will not influence the lake.

The Agency discussed swales to catch water before going into the lake.

The Agency discussed the May P.E. plan dated October 10, 2021, sheet 1 of 1.

G. Goeschel stated the rain gardens are designed to take the place of swales. Originally swales were included in the plan, but the town and applicant engineers thought they did not need the swales because it was collecting rainwater from the existing impervious surfaces without treating or collecting the runoff from the proposed development.

G. Goeschel said there could be a bio-swale along road frontage but there needs to be a separation distance from any proposed septic system.

The Agency suggested rip rap along the road to catch the water.

MOTION: (Schmitt/Rein) to close the Public Hearing Vote: APPROVED unanimously. (7:31)

III. ACCEPTANCE OF MINUTES

A. Meeting Minutes November 8, 2021

MOTION: (Schmitt/Rhein) to approve the November 8, 2021, Regular meeting as presented.

Vote: APPROVED unanimously.

IV. EX-OFFICIO REPORT-no report

V. NEW BUSINESS

A. Application of Solitude Lake Management, Applicant, for Patricia Brooks, Owner, for Determination of Permitted/Non-Regulated activity at property located at 14 Upper Walnut Hill Road, East Lyme for the removal of nuisance aquatic vegetation to maintain an open water for irrigation and aquatic/wildlife.

G. Goeschel described an existing pond used for irrigation; the applicant would like to do maintenance in the pond. They are looking for a determination.

MOTION: (Rhein/Phimister) move that the proposed work at 14 Upper Walnut Hill Road, East Lyme is a non-regulated activity and does not need a permit from the Wetlands Agency pursuant to section 4. 1A. Vote: APPROVED unanimously.

B. 2022 Meeting Calendar

MOTION: (Berger/Rhein) to approve the 2022 meeting dates as presented. Vote: APPROVED unanimously.

VI. PENDING APPLICATIONS

A. Application of Kristen Clarke, P.E., for Cold Spring Lot Management, LLC/John Drabik, Owner, for Nottingham Hills Subdivision Phase 5, Prepared for Kristen T. Clarke, P.E., English Harbour Asset Management, LLC, for an 8-lot subdivision of property at 121 Upper Pattagansett Road, East Lyme Assessor's Map 35.0, Lot 44.

Gregory McIntire recused himself because he is not familiar with the application

G. Goeschel introduced his memo with findings.

The Agency discussed the addition of a bio-swale along the road frontage. G. Goeschel said it could be a condition of approval, but the applicant's engineer and town engineer will have to review for feasibility. The Agency inquired about pervious pavers for the driveways.

G. Goeschel said the if the driveway was over a certain slope it had to be paved.

Attorney John Casey, Robinson Cole, Special Counsel to the Agency, reminded the members that the drainage report/calculations are based on a paved driveway.

A swale along the road could be placed in the town right of way but the town would have to take the swale over as a public improvement or have an agreement to maintain.

J. Casey said that the subdivision regulations require shared driveways to be paved. Also, he advised that any conditions should have a direct impact in reducing impacts to the wetlands. Conditions or changes should be based on the record before you, if adding pervious surfaces which have little or no noticeable benefits then the Agency should base their decision on the record provided.

G. Goeschel read parts of his findings:

The East Lyme Inland Wetlands Agency ("Agency") based on the record before it with respect to this application, finds 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: The Agency has received an Inland Wetlands Application from **Kristen Clarke, P.E., of Cold Spring Lot Management, LLC**, for a proposed 8-lot subdivision of property at 121 upper Pattagansett Road, East Lyme Assessor's Map 35.0, Lot 44.

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, wetlands delineation by a soil scientist depicted on the site plans, a description of the ecological communities and functions of the wetlands and watercourses, a description of how the applicant will change, diminish or enhance the ecological communities and function of the wetlands or watercourse, and management practices and other measures designed to mitigate the impact of the proposed activity pursuant to Section 7.6 of the East Lyme Inland Wetlands Regulations. As such, the Application submitted in accordance with Section 7.1 of the East Lyme Inland Wetlands Regulations is complete.

Whereas: The regulated activities include the construction of single-family dwellings and the installation of associated subsurface sewage disposal systems, well, and associated work within the 300-foot upland review area (URA).

Whereas: There is no direct impact on the wetlands or the watercourse as the proposed activity is to occur in a distinct location outside the area of inland wetlands and watercourses but, within the 300-foot URA. The majority of all the proposed construction activities with the exception of a shared driveway will be conducted beyond 100-feet from any inland wetlands and watercourses but, within the 300-foot URA. Therefore, there are no irreversible and irretrievable loss of wetlands or watercourse which would be caused by the proposed regulated activity.

Whereas: Mitigation Measures to minimize and mitigate the potential impacts from the creation of new impervious surface on the site and to protect the wetlands and watercourses, stormwater management structures (rain gardens) are being proposed which, will pre-treat and control roof and driveway runoff. In addition, any runoff not being treated by the rain gardens will sheet flow across the proposed lawned and landscaped areas and *be collected by a bio-swale on the north side of Pattagansett Road and a vegetative buffer on the south side of Pattagansett Road* (added at the 10/13/2021, meeting) before reaching any down gradient wetlands or watercourses. More specifically, Pattagansett Lake.

Whereas: The project will not adversely impact the ability of the wetlands to supply water or convey natural drainage patterns.

Whereas: The project will not impede the capacity of the wetland to provide recreation or open space values.

Whereas: Section 10.6 of the East Lyme Inland Wetlands Regulations states that the Agency shall not “deny or condition an application for regulated activity in an area outside wetlands or watercourses based on 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 watercourse.”

Whereas: Erosion and Sedimentation Controls will be established along the limits of disturbance to prevent sediment from entering the existing wetlands and watercourse.

Whereas: The project proposes a minimal intrusion into the URA for the purposes of grading associated with the construction of the driveway, dwellings, and the stormwater structures (rain gardens). As such, it is not anticipated to cause any substantial diminution of flow of groundwater levels of the wetlands nor result in the potential to cause pollution of a wetland or watercourse.

Whereas: The project does not propose any activities which will damage or destroy any unique wetlands or such areas with demonstrable scientific or educational value.

Whereas: There are no other prudent and feasible alternatives that would eliminate or further reduce potential wetlands impacts and the proposed activity is of limited duration.

MOTION: (Schmitt/Rhein) Based on these Findings in a memorandum from Gary A. Goeschel II, Director of Planning/ Inland Wetlands Agent, to the East Lyme Inland Wetlands Agency dated December 13, 2021, as revised during deliberations on this application, the Agency MOVES TO APPROVE the application known as Application of Kristen Clarke, P.E., for Cold Spring Lot Management, LLC/John Drabik, Owner, for Nottingham Hills Subdivision Phase 5, Prepared for Kristen T. Clarke, P.E., English Harbour Asset Management, LLC, for an 8-lot subdivision of property at 121 upper Pattagansett Road, East Lyme Assessor’s Map 35.0, Lot 44, and 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. Notify conservation officer at least 2 days prior to construction to inspect erosion controls.
2. 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.
3. The proposed Limits of Disturbance (LOD) shall be strictly adhered to throughout all phases of construction.
4. Install Inland Wetlands tags provided by the Inland Wetlands Agency every 25- feet on center along the Inland Wetlands Boundary.
5. Provide a 25-foot conservation easement from the paved portion of the south and west side of Upper Pattagansett Road as shall be provided to the Town of East Lyme over lot 55A.
6. An Erosion and Sedimentation control bond in an amount satisfactory to the Town Engineer and Inland Wetlands Agency, and in a form acceptable to the Town of East Lyme, shall be posted prior to the start of any sitework or construction.
7. Any proposed Additional work beyond this permit in the wetlands or watercourse or its 300-foot regulated area will require approval from the Inland Wetlands Agency or its certified Agent.
8. Any changes to the site plan listed on this permit requires notification to the Inland Wetlands Agent and may require Agency approval. A new plan incorporating said changes shall be

given to the Agent before any work begins.

9. No site work shall commence until all applicable conditions are satisfied.
10. Notify Inland Wetlands Agent upon completion of all regulated activities for final inspection and sign off.
11. A bio-swale shall be installed along the north side of Upper Pattagansett Road along lots, 50, 51, 52, 54 and 55 to treat runoff not treated by rain gardens.

This approval is specific to the site development plan submitted as the Application of Kristen Clarke, P.E., for Cold Spring Lot Management, LLC/John Drabik, Owner, for Nottingham Hills Subdivision Phase 5, Prepared for Kristen T. Clarke, P.E., English Harbour Asset Management, LLC, for an 8-lot subdivision of property at 121 upper Pattagansett Road, East Lyme Assessor's Map 35.0, Lot 44". Any change in the plan, development plan layout, or any modifications of this approval 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.

Vote: APPROVED unanimously.

Gregory McIntire is reseated

B. Application of Evan Cooper, owner, for a permit to repair damage to stream as a result of Tropical Storm Henri at 2 Gurley Road, East Lyme.

E. Cooper would like to restore his lawn area, adjacent to the stream. The area received significant damage during storm Henri. The work will be completed in late Spring of 2022.

MOTION: (Rhein/Phimister) to APPROVE the stream bank restoration and floodplain mitigation including the installation of armorment along the western streambank of Oil Mill Brook, placement of large boulders within the stream channel, modification of an aggraded riffle bed, and plantings within the floodplain, with the following conditions:

1. Placement of boulders will be 2-3 feet in diameter within the pool and placed in a random pattern after the bank armor is completed.
2. Modification to the aggraded riffle bed feature downstream of the Gurley Road culvert.
3. Vigorous planting of shrub species within the floodplain of the project area.
4. Notify Conservation Agent at least 2 days prior to construction to inspect erosion controls.
5. Notify Conservation Agent upon completion to sign off on permit.
6. Changes to the plan shall require additional approval, a new plan will be submitted prior to construction.
7. Additional work beyond the permitted activities shall require approval from the Commission or its agent.
8. A \$75 silt fence inspection fee is required before construction activities begin.
9. The plantings shall be installed by May 31, 2022.
10. A bond, sufficient to cover the cost and installation of the proposed plantings, as determined by the Inland Wetlands Agent, shall be posted in a form acceptable to the Town of East Lyme prior to the start of any construction.

Vote: APPROVED unanimously.

IX. OLD BUSINESS-none

X. REPORTS

A. Chairman's Report:

1. Pazz & Construction North Bridebrook Affordable Housing Development.

K. Chantrell reported getting photos from a neighbor concerning a pond possibly being filled in.

G. Goeschel looked at aerial photos and could see no water. He also referenced soil reports by two soil scientists and no watercourses were delineated in the area in question.

G. Goeschel said he could go to UCONN's historical photos to see if there was a pond.

Aerial photos in 2016 show an excavator in a clearing that is suspicious and described as the pond location.

G. Goeschel said he could investigate but if it is a pond that was filled there could be feet of fill before getting to wetlands soils. He reminded the members the application was approved by the town.

2. School Buss Parking Lot

The town engineer looked at the area and stated the current conditions are better than they would be if curbed and paved. The town will continue to explore options.

B. Inland Wetlands Agent Report

i. Administrative Permits-provided

ii. Commission Issued Permits-none

C. Enforcement

G. Goeschel informed Mr. Smith on Boston Post Rd. that he needed to apply for a permit to replace the expired permit. If he does not apply soon, enforcement action will be taken.

D. Correspondence-none

If members terms are expired, they need to contact the First Selectman to be reappointed.

X. ADJOURNMENT

MOTION (Schmitt/Berger) to adjourn at 9:04. Vote: APPROVED unanimously.

**Respectfully Submitted
Sue Spang
Recording Secretary**

2022 Meeting dates: January 18, February 1, March 1, April 5, May 3, June 7, July 5, August 2, September 6, October 4, November 1, December 6.