



Town of Woodbury

Inland Wetlands & Watercourses Agency

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Woodbury, CT 06798
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MINUTES – NOVEMBER 12, 2024

REGULAR MEETING

7:30 P.M. – FIRE HOUSE, 25 QUASSUK ROAD

MEMBERS PRESENT:

Earl Gillette, Alternate
Marty Newell, Vice Chair
Timothy Pabst, Alternate
Don Richards
Kyle Turoczi, Secretary
Mary Tyrrell, Chair

MEMBERS ABSENT:

Michael McAloon, Alternate
Ernest Werner

ALSO PRESENT: Doug Lindell, John Mack, Anthony Mennone, Larry McDonald, Michelle Fusco, Atty. Judd, Atty. Pilicy, Darren McGovern, Atty. McVerry, George Logan, Matthew Vogt, Janet Coyle and other interested members of the public.

OPENING OF MEETING

Call to Order – Chair Tyrrell convened the meeting at 7:34p.m.

Seating of Members / Alternates - Seated were regular members Newell, Richards, Turoczi, Tyrrell and Alternate Pabst

Conflict of Interest Reminder (CGS Section 8-11 & Woodbury Town Charter Section 901)

PENDING APPLICATIONS / DELIBERATIONS

24-IW-0034 – 300 Minortown Road / Map 10, Lot 9 / OS-60 District / Doug Lindell (applicant/owner) / Within an Upland Review Area: Construction of a driveway with wetland crossing over an existing pathway (approximately 1,000 linear feet of the driveway is within the upland review area).

Doug Lindell was present with his engineer John Mack. Chairman Tyrrell noted that the Agency walked the site the previous day and that due to extenuating circumstances the engineer was not present. It was noted that several neighbors attended the site walk and were also at the meeting. Although it was not a Public Hearing, the Chairman recognized that there may be people in attendance that may wish to express questions or concerns and asked that after hearing the information if they still wished to speak that they keep their comments directed to wetlands related items with regards to this site and project.

John Mack submitted a revised plan and reviewed it with the Agency. A narrow area that goes over the wetlands was described. There are two pipes in this location one is a 24 in. and the other a 36 in. The 36 in. pipe will be replaced with a 60 in. pipe which is more than enough for a 100 year storm event.

Member Turoczi indicated that it was noted by those present at the walk that the water cannot get over a hump to reach this 60 in. pipe. The existing pipe is not functioning at the angle it is at. Overflow comes around due to the contours and then comes back in. Mr. Mack suggested grading and having a trench to where it goes lower. They should be sure to clean it so that it does not back up.

Mr. Mack described a gully area and suggested pitching it to the downhill side. Elevations were noted as well as where the water comes down off the hill, turning and going under. Another area will be replaced with rip rap at

the outlet. An upper dam area was shown on the plans. An existing exposed crossing access will be replaced with a plastic pipe and rip rap. After 1,000 ft. the activities are outside the wetlands 100 ft. regulated setback.

Driveway materials were discussed, over 10% needs to be paved. The area coming up from Minortown Road will be gravel as it is flat.

Chairman Tyrrell questioned what would happen to the small wetlands that runs parallel to the driveway on the western side. Mr. Mack indicated that the driveway could be pushed further away to the east side. There should be mitigation for wetlands loss and impacts. The areas that have been ignored should be restored and taken care of. A planting plan should be submitted to show what is being proposed to offset the impact and provide better habitat. Mr. Mack responded that the driveway is already existing as well as the stream, they are just formalizing it.

Member Turoczi agreed there will be a lot of water coming down the hill, they need to do something to compensate for that and to slow it down. Detention areas, swales and plantings were discussed.

Anthony Mennone, 262 Minortown Road – Mr. Mennone stated that his main concerns is that this wetland ultimately drains through a stream that runs through his property into a culvert under the road into the Nonnewaug River. He questioned how what is being done affect the stream that runs through his property, noting that in extreme weather events the river backs up through that culvert. Adding more water to that puts his property in more jeopardy. They have never had to worry about the water that may come from the hill above.

An infiltrator was noted, the engineers should be aware and be sure it is positioned in such a way that it doesn't drain into that water way. Mr. Mennone is fine as long as there is no more water coming their way than there is currently.

Larry McDonald, 320 Minortown Road – Mr. McDonald noted that the tributary starts on his property. He reviewed the plans to show the Agency the location. It was noted that the ponds have never been empty until recently assuming that is due the current drought. A runoff area was noted and location of swamp grass growing. His issue is if there was a problem, it would back up onto his property. He reviewed the topography, explaining you do not cut a driveway along a hill, you cut into the hill or pitch to the hill. He questioned the driveway drainage and stormwater mediation. Mr. McDonald also noted that the water table should be reviewed, as it appears high and it won't take more water saturation.

Map revisions should be submitted to the Land Use Office as soon as possible for review by the Agency. Soil sampling in the basin areas should be submitted to the Agency as well. A Landscape Architect should be used for a planting plan and provide plantings that can survive the wet areas.

NEW / MODIFIED APPLICATIONS

24-IW-0030 – 197 Minortown Road / Map 25, Lot 2A-2 / OS-60 District / Michelle Fusco (applicant/owner), Ryan and Pilicy (agent)

- (1) *Subdivision Amendment Review Report to Planning Commission: Amendment of Original Subdivision seeking the removal of original subdivision restriction permitting only a single driveway access shared by both lots of the original subdivision.***
- (2) *Wetlands/Watercourse Permit: Within a regulated upland review area proposed second, milled access drive on the property.***

Michelle Fusco and attorneys Jillian Judd and Franklin Pilicy were present for the discussion.

Atty. Judd submitted a legal opinion for the record. This application is for a subdivision modification. This and the neighboring house were part of a subdivision which allowed only one driveway. They are also applying for a second application for the second access driveway. Two reports by environmental engineers have been

submitted, as well as from Land Tech an independent engineer. Atty. Judd commented that all three of the reports indicate no adverse impact to the wetlands.

The second access drive is in the upland review area not a wetland. Legal court cases were read noting that the Agency must determine that the activity will have an adverse impact on the wetlands and watercourses and that finding must be supported by substantial evidence on the record in order for the Commission to deny an application for activity in the upland review area.

Atty. Judd stated that all three reports submitted state that the second access drive is not in a wetlands it is in an upland review area and there is no adverse impact. The JMM report actually recommends extending the millings. The Land Tech reports states that there were no millings found in the wetlands.

This application is also an application for a reasonable accommodation request. Atty. Judd indicated that the ADA would "trump" any Wetlands regulation. Even if there was an impact, the ADA and Fairhousing Act would apply. There are two individuals at this residence for which this request is being made for.

The Town Planner's memo was noted which suggested possible alternative accommodations. Atty. Judd noting that does not need to be found under the law, just that this accommodation itself is reasonable not that there are alternatives.

Atty. Judd indicated that this driveway has been there for more than 30-50 years. Keeping the driveway there will not materially affect the wetlands and there are three reports that state that there is no adverse impact on the wetlands.

Agency consensus was that they would like the review the newly submitted material as well as look at the ADA requirements. Chairman Tyrrell noted that a few members were not present during these subdivision approvals and may be unfamiliar with the way things were handled with regards to driveways and curb cuts. They need to look at not only safety with regards to ADA, but also safety as to why the Town did not want extra curb cuts on the road.

Atty. Judd reiterated that the driveway has been there for many years with no issue. Chairman Tyrrell noting that there was never an approval for the second driveway.

Members requested a copy of the pertaining ADA statutes for their review.

24-IW-0035 – 93 Weekepeemee Road / Map 40, Lot 48 / OS-100 District / Darren McGovern (applicant/owner) / Remediation of 21-ENF-0001 (Prior Remediation Approval 23-IW-0001 not implemented and now expired) / Within an Upland Review Area: Remediation for unauthorized tree/shrub clearing, excavation, and grading, and deposition of cut trees and brush within regulated area absent permits.

Darren McGovern, Attorney Michael McVerry and George Logan, Soil Scientist were present for the discussion.

Attorney McVerry indicated that his client was late in implementing an order by the Agency. Mr. Logan went out to the site in April reviewing what had been going on and then again in October and submitted a report dated November 1, 2024, along with this application. The report basically states that the remediation is already occurring, there was no evidence of erosion or sedimentation and what was there has been restored.

George Logan noted that he never saw the final order conditions and requirements. After visiting the property he has observed natural restoration of the site. The area is completely revegetated, although there are some invasives that are there. A bare area discussed at the previous meetings, was since limed and seeded and that area is now about 50% vegetated. There were no signs of erosion on the property. The brush pile previously

discussed by the Agency has been mainly removed, the remainder is now a valuable habitat. Mr. Logan’s view at this time is that there has been no adverse impact or risk of the regulated resources. He would not recommend doing anything at this time.

A site walk was suggested so that the Agency could view the site to see for themselves and have a discussion if anything else should be done.

Three sugar maples have been planted. A survey had been submitted along with the application. The original remediation order along with its conditions was read for the record.

Mr. Logan’s professional opinion after recent observations was that there was nothing needed and there was no wetland impact. There was evidence of regeneration there. The scrub shrub environment that has developed there is valuable.

The Agency scheduled a site walk for Sunday, November 24, 2024, at 9:00 a.m.

24-IW-0036 – 401 Middle Road Turnpike / Map 10, Lot 1C / OS-60 District / New England Aquatic Services, LLC (agent); Davis Family Trust (owner) / Within a Wetland/Watercourse and Upland Review Area: Pond dredging of a portion of pond to remove sediments using a hydraulic suction; dewatering and onsite dispersal of dried sediments.

Matthew Vogt of New England Aquatic Services was present to represent the property owners. It was noted that the pond was last dredged in 1991. It has been filled in considerably with sediments. The goal is to remove a portion of the western half of the pond. The pond is currently about 0-2 ft deep, and they will remove about two feet of sediment using hydraulic suction. Hydraulic dredging was explained for the Agency. It is a more friendly method and they are not addressing the entire pond at this time. Material will be dried in the upland area and be spread. It will take about 2-3 weeks and will be done in the winter. The tube will sit there for about 8 weeks. It was questioned if there was a plan in place for the future to avoid this sediment build up. The property owner explained there is not much they can do; the brook comes down from the hill and the road feeds into the brook. The watercourse where it comes in from is also not on their property. The pond acts as a catch basin in itself.

The Agency expressed no further questions or concerns and a draft motion was requested for the next meeting.

Chairman Tyrrell rearranged the agenda to accommodate a resident present for Privilege of the Floor.

MOTION:

To amend the agenda to discuss Privilege of the Floor.

Moved by TUROCZI, Seconded by PABST

Vote: 5-0-0 – **Approved** – Motion Passed

Aye	Newell, Pabst, Richards, Turoczi, Tyrrell
Nay	None
Abstain	None

Member Richards left the meeting at around 9:00 p.m. (no one was seated in his place).

PRIVILEGE OF THE FLOOR

Janet Coyle, 148 Quassapaug Road – Ms. Koyl discussed concerns she is having with a brook running through her property. She is concerned that the culvert is not being maintained by Public Works. In addition, there is blockage evident on the other side of the road on her neighbor’s property. The brook is not flowing freely after it goes

through the culvert. She was asking for advice on how to move forward to resolve these issues. The Agency suggested writing a letter to the property owner noting her concerns and asking for help and to also send one to Public Works and the Land Use Office for the record.

ENFORCEMENT & WETLANDS UPDATE

- **23-ENF-0002 – 197 Minortown Road / Map 25, Lot 2A-2 / OS-60 District / Michelle Fusco**
Discussed under New/Modified Applications.
- **24-ENF-IW04 – 544 Old Sherman Hill Road / Map 2, Lot 5 / OS-80 / Nicholas Bennett**
Unauthorized and non-permitted driveway installation, parking/storage area, vegetation clearing and grading, dumping of tree stumps/debris and storage of contractor materials and equipment within wetlands/watercourses upland review area.
No new updates.
- **24-ENF-IW02 – 83 Park Road / Map 103, Lot 36A / OS-60 District / Zachary Lessard**
Unauthorized tree removal, timber storage, equipment/business storage, active accessways through regulated areas and land/ground disturbance within wetland/watercourse.
An update was emailed from Mr. Lessard noting the outside renovations of the barn had been completed and there were some remaining interior items to still be addressed.
- **23-ENF-IW05 – 57 Lake Road / Map 77, Lot 3 & 7 / OS-60 / Robert Taggett**
Unauthorized driveway installation.
No updates.
- **23-ENF-IW06 – 13 Edward Avenue / Map 77, Lot 4-26, 27 & 2 / OS-60 / Frances M. Palomba**
Unauthorized driveway installation.
No updates.
- **18-IW-1621 – 614 Main Street South / Map 102, Lot 25 / MQ District / Napoli Woodbury LLC**
IWWA Review of Constructed Site Conditions / Bond Status – Dollar General.
No updates.

ADMINISTRATIVE

Regular Meeting Minutes – 10/28/24

P. 3 – Under the Correspondence heading, third paragraph should read: *“Chairman Tyrrell noted her familiarity with the site prior to the bridge work. She was ‘appalled at the liberties that were taken and how the stream was affected and unchannelized.’” Member Turoczi was in agreement with this sentiment.*

MOTION:

To accept the Minutes of the October 28, 2024, meeting as corrected above.

Moved by **TUROCZI**, Seconded by **PABST**

Vote: 4-0-0 – **Approved** – Motion Passed

Aye	Newell, Pabst, Turoczi, Tyrrell
Nay	None
Abstain	None

Regulation Review

Draft Inland Wetlands and Watercourses Regulations - Tabled

Draft Forest Practices Regulations - Tabled

CORRESPONDENCE – The Annual Meeting Schedule for 2025 was reviewed by the Agency.

MOTION:

To approve the 2025 Annual Meeting Schedule as presented.

Moved by **NEWELL**, Seconded by **TUROCZI**

Vote: 4-0-0 – **Approved** – Motion **Passed**

Aye	Newell, Pabst, Turoczi, Tyrrell
Nay	None
Abstain	None

PRIVILEGE OF THE FLOOR – This was addressed earlier in the meeting.

ADJOURNMENT

MOTION:

To adjourn the meeting at 9:25 p.m.

Made by **NEWELL** with no objections.

Respectfully Submitted,

Anne Firlings

Anne Firlings, Inland Wetlands & Watercourses Agency Clerk

RECEIVED & FILED
IN WOODBURY, CT

This 14th day of NOV 2024
at 3:32 o'clock PM

Anna M Mancini
Town Clerk