

Town of Old Lyme, CT

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INLAND WETLANDS AND WATERCOURSES COMMISSION

MINUTES PUBLIC HEARING & REGULAR MEETING JANUARY 28, 2025

Chair Gaudio called the meeting to order at 6:01 PM

Present: Rachael Gaudio, Chair, Tom Machnik via telephone, Vice Chair, Peter Friel, Todd Crolius, Jared Bombaci, John Mesham, and Michael Aurelia

Absent: Scott Basham

Also present: Eric Knapp, Wetlands Enforcement Officer, Edward Cassella, Counsel

NEW BUSINESS

25-1 – Southwick Commons, 77-1 & 77-2 Lyme Street. Construction of two apartment buildings, extending the access drive and construction of two parking areas. The application was received, and a site walk was set for Thursday, February 6th, 2025 at 5:15 PM.

25-2 – Rodney & Deborah Hornbake, 16 Town Woods Road. Removal of existing buildings, select tree removal, and construction of a new 4-bedroom dwelling and associated improvements. The application was received, and a site walk was set for February 6, 2025 at 5:00 PM.

25-3 – Paul and & Dana Neves, Applicants, Eric & Mary Kate Parker, Owners. Construction of a new 4-bedroom dwelling, a 24' x 20' barn and other associated improvements. The application was received, and a site walk was set for February 6, 2025 at 5:30 PM.

OLD BUSINESS

24-34 - Anthony Esposito – 9 Biscayne Blvd. Repair collapsing driveway.

The Chair asked if the applicant or a representative was present. No one was in attendance to speak for the applicant. Due to the Commission's inability to obtain the information it needed to review the application, a motion was made by

Rachael Gaudio, seconded by John Mesham to deny the application without prejudice. The motion passed unanimously.

24-35 - 9 Tantummaheag Road. Carey Meltzer. Excavate the sediment in the eastern half of the pond.

The Chair asked if the applicant or a representative was present. No one was in attendance to speak for the applicant. Due to the Commission's inability to obtain the information it needed to review the application, a motion was made by Rachael Gaudio, seconded by John Mesham to deny the application without prejudice. The motion passed unanimously.

CONTINUED PUBLIC HEARING

24-32 – 304 & 308-1 Mile Creek Road, LLC. Placing of material and clearing of soil and brush within 100' of wetlands.

Attorney Bill McCoy gave a brief introduction reminding the commission where the application was in the process. The Applicant's engineer discussed the six points that were addressed by this applicant. Mr. Wren then gave details on beaver removals in prior years and earlier in January. Mr. Wren then introduced Joseph Theroux, the Applicant's soil scientist to address the current status of the proposed application.

Mr. Theroux explained that leaving the current improvements, such as the berm, in place was preferable to removing them. Mr. Theroux then detailed two possible areas of remediation, with Mr. Wren locating them on the site plan.

There was discussion regarding whether the Commission required a new site walk to review the location of the possible remediation areas. Attorney McCoy requested the opportunity to review this with his client.

Commissioners asked if there were other possible areas for remediation. Mr. Theroux stated that there could be one additional area between wetlands flags 21 A and 32 A.

Mr. Theroux stated that the remediation areas, particularly the southerly one, may need to be adjusted based upon the location of the likely detention basin to be designed by Mr. Wren. As that detention basin was proposed to be a part of the proposed subsequent application, it was not shown, and Mr. Wren had not designed it.

Commissioner John Mesham agreed that the boulders should not be removed, but stressed that there had been a history of behavior from the Applicant and the Commission needed to make sure that action on this application would ensure future cooperation from the Applicant.

Attorney Cassella noted the court case is still pending.

Mike Aureila stated he had reviewed the ariel photos available at the Department of Energy and Environmental Protection, as well as minutes of the Conservation Commission dating back to its creation in 1974, and coming forward in time.

A discussion ensued between Attorneys Cassella and McCoy regarding the evidence proffered by Commissioner Aurelia. Attorney Cassella indicated that he believed that the evidence was proper, given that it was all from public records, but questioned its relevance to the current application.

In an effort to re-focus the meeting, Chair Gaudio reads the 6 actions requested by the application into the record.

PUBLIC COMMENT

Dave Littlefield – Mile Creek Road spoke in opposition to the application.

Peter Caron – 442 Shore Road, Intervenor

Mr. Caron stated he has never seen any beaver action in the last 5 to 6 years.

Gary Gregory – 10-1 Browns Lane

Mr. Gregory suggested that the Commission should hire its own wetlands scientist to evaluate the claims made by the Applicant.

Olaf Bertram-Nothnagel – 3 Jean Drive

Mr. Bertram-Nothnagel stated if the area is expanded a new evaluation by the soil scientist would be required.

Millie Caron – 442 Shore Road, Intervenor

Mrs. Caron does not want Mr. Swaney to do the mitigation work.

Raina Volovski – Four Mile River Road

Ms. Volovski would like a hydraulic engineer to review the culvert and a soil scientist to analyze the data.

Peter Caron – 442 Shore Road, Intervenor

Mr. Caron stated that the National Diversity Data Base (NDDB) covers this and submitted a map, (Exhibit P) as well as vernal pool analysis. (Exhibit Q)

Wayne Kirk – 5 Holly Lane

Mr. Kirk stated the creeping gravel pit needed to stop. He further stated that Old Lyme does not need a gravel pit there.

Fred Verillo – Browns Lane

Mr. Verillo stated he agreed with Mr. Kirk and further stated he did not want the driveway expanded.

Matthew McKenzie – 228 -1 Mile Creek Road

Mr. McKenzie stated the history of the site is important.

The Chair inquired whether the public had further comments. Seeing none, she asked if the Applicant had any response.

Attorney Bill McCoy indicated that they did desire to respond to the public comments.

Joe Wren stated that the culvert has been there and is unchanged. Mr. Wren indicated that his goal in the future design of the detention basin was to avoid the need to obtain a permit from the DEEP.

He further stated that mitigation is always overseen by the project's soil scientist and the town can inspect the 6 items clearly labeled, the wetlands flagging and the mitigation area.

The commission discussed feasible and prudent alternatives or was the best action to just leave in place. Attorney McCoy, supported by Mr. Wren, argued that there were no better alternatives to leaving the existing work in place.

Peter Caron – 442 Shore Road, Intervenor

Mr. Caron stated that the berm was placed on top of the dumped material to cover up the destruction.

Mr. Theroux, Wetlands Soil Scientist reviewed his letter dated 1/21/25 with the commission. He also submitted photographs of the area for the commission to review.

Mr. Theroux stated on the record that the berm was not located on areas of wetlands soils.

He stated that he roughly measured 3,000 to 3,6000 square feet of area available for wetland mitigation. He said the size of the area would depend on any potential drainage basins or features proposed in or adjacent to it.

The commission agreed they would like to see the two mitigation areas.

Attorney McCoy submitted a letter granting the commission permission to leave the Public Hearing open for a period of 45 days or until February 18, 2025 and indicated that his client was willing to allow a new site walk.

The commission set a Site Walk for February 1, 2025 at 11:00 a.m.

Rachael Gaudio made a motion, Jared Bombaci seconded the motion to continue the Public Hearing until February 18, 2025 at 6:00 p.m. The motion passed unanimously.

REGULAR MEETING

Election of Officers

John Mesham made a motion to nominate Rachael Gaudio as Chair. Jared Bombaci seconded the motion. The motion passed unanimously.

Jared Bombaci made a motion to nominate Tom Machnik as Vice Chair. Todd Crolius seconded the motion. The motion passed unanimously.

READING AND APPROVAL OF MINUTES

Rachael Gaudio made a motion to approve November 26, 2024 Regular Meeting Minutes. John Mesham seconded the motion. The motion passed unanimously.

Peter Friel made a motion to approve the December 16, 2024 Site Walk Meeting Minutes. John Mesham seconded the motion. The motion passed with two abstentions, as neither Rachael Gaudio nor Tom Machnik were present for the site walk.

Rachael Gaudio made a motion to approve the Special Meeting and Public Hearing minutes dated December 10, 2024. Michael Aurelia seconded the motion. Several amendments were offered. Michael Aurelia and Jared Bombaci indicated that they were not listed as being present. John Mesham stated that he had specifically asked Joe Wren whether a new DEEP permit would be required and had been told "no". The motion to pass the minutes with these amendments passed with Peter Friel abstaining.

ADJOURNMENT

Rachael Gaudio made a motion to adjourn the meeting at 8:19 p.m. Jared Bombaci seconded the motion. The motion passed unanimously.