

TOWN OF ESSEX  
Inland Wetlands and Watercourses Commission

**Executive Board**  
*Fred Szufnarowski Chairman*  
*Daniel Lapman, Vice Chair*

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Telephone (860) 767-4340 • FAX (860) 767-8509

**Regular Members**

*Jim Leo*  
*Steve Knauth*  
*Jeffrey Lovelace, Conservation Liaison*  
*Jim Hill, Zoning Liaison*  
*Vacancy, Planning Liaison*

**Alternate Members**

*Ernest Cook*  
*Andre Roussel*

**Unapproved**

**Minutes - Regular Meeting**  
**Tuesday, October 10, 2017**

**1. Call to Order and Seating of Members**

The regular Meeting of the Essex IWWC was conducted on October 10, 2017 in Room A of the Essex Town Hall at 7:00 p.m.

**Attending Members:**

Fred Szufnarowski  
Steve Knauth  
Jim Hill  
Jim Leo  
Jeff Lovelace  
Andre Roussel, Alternate  
Ernest Cook, Alternate

**Absent Members:**

**Staff:**

Stella Beaudoin, Recording Clerk  
Joseph Budrow, Wetlands Enforcement Agent

F. Szufnarowski called the meeting to order at 7:00 p.m.

Seated for the meeting were F. Szufnarowski, D Lapman, J Leo, J Hill, J Lovelace, S Knauth.

**2. Approval of Minutes**

- **September 12, 2017 regular meeting**

**MOTION** made by J Leo to approve the September 12, 2017 regular meeting Minutes as presented;  
**SECONDED** by J Lovelace **Voting In Favor:** F. Szufnarowski, D Lapman, J Leo, J Hill, J Lovelace;  
**Opposed:** None; **Abstaining:** S Knauth; **Approved:** 5/0/1.

### 3. Public Hearing

- No public hearing scheduled.

### 4. Regular Meeting

- **Application No. 17-9 – Stephen Cline, 85 Westbrook Road**  
An application to expand a parking area and install a culvert.

The IWWC conducted a site walk on September 18, 2017 on behalf of this proposal. R Doane pointed out the area in which the front parking lot would be expanded southward replacing lawn. R Doane stated that he will bring in fill so as to increase the grade in the area of the parking lot.

Robert Doane, P.E. presented on behalf of the applicant, Stephen Cline, successor trustee for the irrevocable trust. R Doane stated that he proposed to add 6500 s.f. to an existing building and per the zoning regulations, that activity requires parking to be added to accommodate the proposed 60 employees. A portion of the parking is within 100 feet of the wetlands. R Doane displayed a revised plan. R Doane noted that he will bring in fill to increase the grade in the area to the south of the property where the proposed parking lot will be installed.

**MOTION** by A Roussel to approve a permit for **Application No. 17-9 – Stephen Cline, 85 Westbrook Road**. This is an application to expand a parking area and install a culvert. Based on the information presented in this application and the accompanying documents, the site inspection and on the testimony given at this meeting, the Commission finds that the proposed activity is a regulated activity not involving significant impact or major effect upon the inland wetlands or watercourse which occur on the property, as defined in Section 2.2, and that few or no reasonable or prudent alternatives exist; The Commission makes a Summary Ruling and grants a permit and permission for the applicant to proceed with proposed activity as stated on said application and as shown on plans accompanying the application, subject to the following conditions:

- a. In accordance with the Commission's Regulations, the activity pursuant to said permit shall be initiated within 5 years of the date of publication and shall be completed within one year of the date of initiation and will occur between March 14<sup>th</sup> and October 15<sup>th</sup> of the year of initiation.
- b. Should the applicant determine that the permitted activity will not be completed between March 14<sup>th</sup> and October 15<sup>th</sup> of the year of initiation, the applicant agrees to appear before the Commission and present a plan for the stabilization of the site during the non-permitted months.

- c. The applicant agrees to follow the advice and direction of the Town of Essex Enforcement Officer with regard to any field changes he deems necessary or may require for the protection of the inland wetlands and water course during the process.
- d. The Commission, through its Enforcement Officer, shall be notified in writing upon the initiation of the authorized activity and again upon completion of these activities.

**SECONDED** by J Leo; **Voting In Favor:** F. Szufnarowski, J Lovelace, J Hill, J Leo, D Lapman, S Knauth; **Opposed:** None; **Abstaining:** None; **Approved:** 6/0/0.

- **Application No. 17-10 – Norman Needleman, 9 Foxboro Road**

An application to add a rain garden, a splash pad and a foot path within 100 foot upland review area of North Cove.

Robert Doane, P.E. presented on behalf of the applicant who proposes to install a rain garden, a grass walking path through a conservation area, and a 10' x 10' rip rap pad to receive the footing drain and discharge from the rain garden. This proposal is located within 100 feet of the wetlands.

A Roussel commented on the pedestrian traffic traversing over the pathway to access the dock and noted that unless proper measures are taken, that area will become muddy. R Doane stated that there are 6 people utilizing the pathway to access the dock.

A Roussel read into the record a letter written by the Essex Conservation Commission to the Planning Commission dated September 26, 2017 in which it is stated that "as authorized by the CGS 7-131a that (b) A conservation commission...may make recommendations to zoning commissions, planning commissions, inland wetlands agencies and other municipal agencies on proposed land use changes. The Conservation Commission recommends a non-easement solution be pursued so as not to override the intent of the Declaration of Perpetual Conservation Restriction Easement and the specific Prohibition #6 which states; "There shall be no ditching, draining, diking, filling, excavating, dredging, mining or drilling, removal of loam, topsoil, sand, gravel, rock, minerals or other materials, or change in the topography of the Conservation Easement Area in any manner."

The Applicant requests approval to install a footing drain outfall system and a rain garden in the Conservation Easement area and the Conservation Commission recommends that the Declaration of Perpetual Conservation Restriction Easement Prohibition #7 which states that "there shall be no granting of any right-of-way or right-of-passage over any portion of the Conservation Easement Area", be upheld.

The Conservation Commission noted that given there is an inconsistency between the Land Use Application #17-10 (before IWWC) asking for a 6' wide path on a portion of the Conservation Easement and the Doane-Collins Map dated May 16, 2016, Improvement Location Plan for Needleman & Hubbard, showing a 5' wide path through the Conservation Easement, a path of any

size may set a precedent for commissions to modify Perpetual Conservation Restriction Easements and should not be allowed.

R Doane acknowledged the inconsistency and will revise the application to specify the width of the pathway to be 5-ft. R Doane also pointed out that he had evaluated non-easement solutions as described in the application and determined that the proposed activities better protect the resource and reduce the amount of work/disturbance in the review area and easement.

Mr. Budrow presented the findings of his review of the application that determined the proposed activity would have minimal effect on the resource provided there is a routine maintenance plan for the rain garden.

The Commission has been advised that granting waivers to the Conservation easement is not within their purview. However, the technical details noted in the application, the site walk and in the testimony received provide a basis for the Commission to make a determination of the effect of the proposed activity on resource.

The Commission determined that the Conservation easement is not within their purview, however the technical details noted in the application, the site walk and in the testimony as related to the wetlands are something for which the Commission is required to make a finding.

**MOTION** by J Leo to approve a permit for **Application No. 17-10 – Norman Needleman, 9 Foxboro Road**. This is an application to add a rain garden, a splash pad and a 5 (five) foot wide path within 100 foot upland review area of North Cove. Based on the information presented in this application and the accompanying documents, the site inspection and on the testimony given at this meeting, the Commission finds that the proposed activity is a regulated activity not involving significant impact or major effect upon the inland wetlands or watercourse which occur on the property, as defined in Section 2.2, and that few or no reasonable or prudent alternatives exist; The Commission makes a Summary Ruling and grants a permit and permission for the applicant to proceed with proposed activity as stated on said application and as shown on plans accompanying the application, subject to the following conditions:

- a. In accordance with the Commission's Regulations, the activity pursuant to said permit shall be initiated within 5 years of the date of publication and shall be completed within one year of the date of initiation and will occur between March 14<sup>th</sup> and October 15<sup>th</sup> of the year of initiation.
- b. Should the applicant determine that the permitted activity will not be completed between March 14<sup>th</sup> and October 15<sup>th</sup> of the year of initiation, the applicant agrees to appear before the Commission and present a plan for the stabilization of the site during the non-permitted months.

- c. The applicant agrees to follow the advice and direction of the Town of Essex Enforcement Officer with regard to any field changes he deems necessary or may require for the protection of the inland wetlands and water course during the process.
- d. The Commission, through its Enforcement Officer, shall be notified in writing upon the initiation of the authorized activity and again upon completion of these activities.
- e. Annual inspection and maintenance of the rain garden.
- f. Annual inspection and maintenance of the foot path.

**SECONDED** by J Leo; **Voting In Favor:** F. Szufnarowski, J Hill, J Leo, D Lapman, S Knauth; **Opposed:** J Lovelace; **Abstaining:** None; **Approved:** 5/1/0.

- **Application No. 17-11 – John and Susan Abbot, 151 River Road**  
An application to demolish an existing house and replace with a new single family dwelling and terraced rear yard to include plantings.

Attorney John Bennet and Chad Frost, landscape architect presented at this evening's meeting.

A Roussel stated that he visited the site and noted the steep decline in the area where the driveway drops down. A Roussel noted for the record that C Frost had done an excellent job in mitigating the dramatic grade change on the subject property. He asked what protective measures would be taken during the construction process. C Frost said, as detailed in the application, "coir" log rolls would be installed perpendicular to the slope at 10-ft vertical intervals and jute matting would be installed beneath the landscaped areas to further reinforce the soil.

**MOTION** by S Knauth to approve a permit for **Application No. 17-11 – John and Susan Abbot, 151 River Road**. This is an application to demolish an existing house and replace with a new single family dwelling and terraced rear yard to include plantings. Based on the information presented in this application and the accompanying documents, the site inspection and on the testimony given at this meeting, the Commission finds that the proposed activity is a regulated activity not involving significant impact or major effect upon the inland wetlands or watercourse which occur on the property, as defined in Section 2.2, and that few or no reasonable or prudent alternatives exist; The Commission makes a Summary Ruling and grants a permit and permission for the applicant to proceed with proposed activity as stated on said application and as shown on plans accompanying the application, subject to the following conditions:

- a. In accordance with the Commission's Regulations, the activity pursuant to said permit shall be initiated within 5 years of the date of publication and shall be completed within one year of the date of initiation and will occur between March 14<sup>th</sup> and October 15<sup>th</sup> of the year of initiation.

- b. Should the applicant determine that the permitted activity will not be completed between March 14<sup>th</sup> and October 15<sup>th</sup> of the year of initiation, the applicant agrees to appear before the Commission and present a plan for the stabilization of the site during the non-permitted months.
- c. The applicant agrees to follow the advice and direction of the Town of Essex Enforcement Officer with regard to any field changes he deems necessary or may require for the protection of the inland wetlands and water course during the process.
- d. The Commission, through its Enforcement Officer, shall be notified in writing upon the initiation of the authorized activity and again upon completion of these activities.
- e. Contingent upon receiving a letter from the Applicant requesting permission to work beyond October 15<sup>th</sup>, there will be a special condition in which work between the period October 15, 2017 and March 14, 2018 is permitted under the supervision of the IWWC Enforcement Officer.
- f. The contractor will submit a copy of any field changes to the Zoning Enforcement Officer for his final approval.

**SECONDED** by J Leo; **Voting In Favor:** F. Szufnarowski, J Lovelace, D Lapman, J Hill, J Leo, S Knauth; **Opposed:** None; **Abstaining:** None; **Approved:** 6/0/0.

- **Cease and Desist: Thomas and Pam Carroll. 39 Main Street, Essex, Assessor's Tax Map 47, Lot 48.**

The Wetlands Enforcement Agent, Joseph Budrow issued a Cease and Desist order on October 6, 2017 to Thomas and Pam Carroll for expansion of a driveway by adding approximately 400 s.f. of gravel parking area. M/M Carrol was issued an IW Permit #15-18 on December 8, 2015 however the driveway work was not included in the approval of said Permit. Per the WEO's Cease and Desist, the property owners must remove the gravel and dirt or apply for an IW Permit to allow for a parking area.

Pam Carrol was present at this evening's meeting. J Budrow provided a brief explanation of the violation as related to the installation of the gravel driveway.

**MOTION** made by S Knauth to conduct a site walk inspection on behalf of **Thomas and Pam Carroll, 39 Main Street, Essex, CT** on October 16, 2017 at 4:00 p.m.; **SECONDED** by J Leo; **Voting In Favor:** F. Szufnarowski, J Lovelace, J Hill, J Leo, S Knauth, D Lapman; **Opposed:** None; **Abstaining:** None; **Approved:** 6/0/0.

## 5. Receipt of New Applications

There were no new applications.

## 6. Section 11 Approvals

J Budrow reported **Application No. 17A-8 – George Washburn, 8 Brackett Lane**. Approval to construct a roofed, open-sided structure atop an existing wooden bridge.

**Motion** by D Lapman **that the Essex Inland Wetlands and Watercourses Commission concurs with the decision of the Wetlands Agent with regard to Application # 17A-8, George Washburn, 8 Brackett Lane; SECONDED** by A Roussel; **Voting In Favor:** D. Lapman, F. Szufnarowski, J Leo, J Hill, D Lapman, J Lovelace; **Opposed:** None; **Abstaining:** None; **Approved:** 6/0/0.

## 7. Other Business

J Lovelace stated that in the standard language on the Motion to schedule an application for consideration at an upcoming meeting, it is stated that *“Based on the information presented in this application and the accompanying documents, and on the testimony given at this meeting, the Commission finds that the proposed activity is a regulated activity not involving significant impact or major effect upon the inlands wetlands or watercourse which occur on the property, as defined in Section 2.2, and that few or no reasonable or prudent alternatives exist”* J. Lovelace suggested that the text be revised to reflect the fact that the Commission has not yet made the determination that said proposal will not have a major effect or significant impact on the inlands wetlands or watercourse which occur on the property.

F Szufnarowski to review with Commission lawyer and revise as needed.

## 8. Correspondence and Invoices

J. Budrow distributed registrations forms to the annual conference of Conservation and Inland Wetlands Commissions which will be held on Saturday, November 18, 2017 in Cromwell.

There were no invoices.

## 9. Reports:

### a. Wetlands Official –

- J Budrow, no report.

### b. Chairperson –

- F. Szufnarowski reminded the Commissioners that at the November or December meeting the IWWC will be electing officers for 2018.
- F. Szufnarowski reported that some of the commissioner’s terms will expire on 12/31/2017 and he suggested that those members speak with the town clerk if they are interested in serving another term.

- A July 24, 2017 special town meeting approved restructuring the IWWC from 7 regular members to 5 regular members with 2 alternates, effective 01/01/2019. There will no longer be liaisons serving between the IWWC and other commissions.
- c.     **Planning Commission Representative** – Vacant. No report.
- d.     **Conservation Commission Representative** –
- J Lovelace reported that the Conservation Commission has tabled discussion on the beaver remediation project until March of 2018. The Commission decided not to move forward at this time as there is no funding available for the installation of the drainage system and the engineer's bill.
  - J Lovelace reported that the Conservation Commission (as a result of their September 26, 2017 special meeting) sent a letter of their recommendation for a non-easement solution to the Planning Commission (with copy to IWWC) concerning Application #17-10.
- e.     **Zoning Commission Representative** –  
J Hill – no report.

## 10.     **Adjournment**

**MOTION** made by D Lapman to adjourn at 8:47 p.m. to the next regularly scheduled IWWC meeting to be held on Tuesday, November 17, 2017 at the Essex Town Hall, 2<sup>nd</sup> Floor Conference Room A, 29 West Avenue; **MOTION SECONDED** by J Lovelace; **Voting In Favor:** F. Szufnarowski, J Lovelace, Hill, J Leo, D Lapman, S Knauth; **Opposed:** None; **Abstaining:** None; **Approved:** 6/0/0.

Stella C. Beaudoin  
Recording Secretary