



TOWN OF ESSEX  
**Inland Wetlands and Watercourses Commission**

**Officers**  
*Michael Furgueson, Chairman*  
*David Kirsch, Vice Chair*

---

29 West Avenue • Essex, Connecticut 06426  
 Telephone (860) 767-4340 • FAX (860) 767-8509

**Regular Members**  
*Ernest Cook*  
*Fred Szufnarowski*  
*Noreen Brennan-Rowe*

**Alternate Members**  
*Carolyn Field*  
*Lisa Krall*

---

**July 11, 2023 Regular Meeting Minutes**

<b>Attending Members:</b>	<b>Absent Members:</b>
David Kirsch, Vice Chairman	Fred Szufnarowski
Ernest Cook	Michael Furgueson
Noreen Brennan-Rowe	
Carolyn Field, Alternate	
Lisa Krall, Alternate	

<b>Staff:</b>	
	Danielle Schumacher, Recording Clerk
	Robert Doane Jr., PE
	Carey Duques, Land Use Official
	Sylvia Rutkowska, Commission Attorney (Via Zoom)

<b>Audience:</b>	
	Frank Perrotti- 46 Main Street Ivoryton
	Michael Docchio- 1 Johnnycake Lane
	Robert Schickel- Representing Application 23-07
	Anne Kingston- 9 River Rd Essex (via Zoom)
	Steven Schneider- 9 River Rd Essex (Via Zoom)
	Robert Keller- Heron Pond Rd Essex
	Lynn Keller- Heron Pond Rd Essex

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

The meeting was called to order at 6:59 PM. By Vice Chairman David Kirsch. Seated for the meeting were David Kirsch, Ernest Cook, Noreen Brennan-Rowe, Carolyn Field (alternate), and Lisa Krall (alternate).

**2. Approval of Minutes**

**a. June 13, 2023 Regular Meeting Minutes**

**MOTION** made by E Cook to approve the minutes from the June 13, 2023 regular meeting with the following amendments:

**SECONDED** by D Kirsh; **Voting in Favor:** D Kirsch, E Cook, N Brennan-Rowe, C Field, and L Krall; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0; **Discussion:** No Discussion

**b. June 29, 2023 Site Walk Minutes**

**MOTION** made by E Cook to approve the minutes from the June 29, 2023 Site Walk; **SECONDED** by C Field; **Voting in Favor:** D Kirsch, E Cook, N Brennan-Rowe, C Field, and L Krall; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0; **Discussion:** No Discussion

**3. Public Comment**

None

**4. Public Hearings**

**a. Cease and Desist Show Cause Hearing 46 Main Street and 1 Johnnycake Lane, Ivoryton**

Cutting of vegetation in a wetlands and filling of a stream with soil and removal of vegetation within 100 feet of a wetlands without a permit. *Property Owner: Spartan Associates, LLC and Michael and Kalyn D'Occhio (Continued from June 13, 2023)*

C Duques said that they are working with the property owner to ensure erosion and sedimentation (E&S) controls are installed and maintained. There was a breach in the stone and both sections of hay bales today. They are hoping to have someone out in the morning to retore the E&S.

R Doane commented that they may have to replace some of the hay bales and use rebar to hold them in place.

Property owner Frank Perotti spoke to the commission. He said that they installed the emergency E&S controls and continue to make adjustments as necessary. The soil scientist James Sipperly completed his flagging and the information has been sent to McDonald and Sharp surveyors who are working on the project. J Sipperly has also been out to the site with R Doane and C Duques to inspect the E&S controls. He expects to be able to present at the next meeting the permanent E&S controls along with plans for the parking area and patio they hope to build.

R Doane asked if the surveyors would also be doing the engineering and taking over the maintenance of the E&S measures.

F Perotti said that they would not be doing the engineering, that he has someone else contracted.

C Duques recommended that the cease and desist be recorded on the land records. She explained that this would get put in the file as a notice to the public and any potential buyers that there is a cease and desist on the properties.

**MOTION** made by N Brennan-Rowe to maintain the cease and desist on 46 Main Street and 1 Johnnycake Lane until the August 8, 2023 meeting; **SECONDED** by D Kirsh; **Voting in Favor:** D Kirsch, E Cook, N Brennan-Rowe, C Field, and L Krall; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0; **Discussion:** No Discussion

**5. Unfinished Business/Action Items**

**a. Cease and Desist Show Cause Hearing 46 Main Street and 1 Johnnycake Lane, Ivoryton**

Cutting of vegetation in a wetlands and filling of a stream with soil and removal of vegetation within 100 foot of a wetlands without a permit. *Property Owner: Spartan Associates, LLC and Michael and Kalyn D'Occhio (Continued from June 13, 2023)*

Discussed above

- b. **IWWC Application 23-06 52 West Ave, Essex** Seasonal treatment of cattails in Sunset pond.  
*Property Owner: The Paul Foundation Applicant: The Town of Essex*

C Duques said that it appears that the cattails have died. The Paul Foundation has received a license from DEEP. Ryan Welch from public works is going to consult with All Habitat about whether or not they will need to treat this year. The request is for a 5-year permit just in case it is needed.

**MOTION** made by N Brennan-Rowe based on the information presented in this application IWWC #23-06, the accompanying documents in the record, and on the testimony given at this meeting, the Commission finds that the proposed activity is a regulated activity not involving significant or major effect upon the inland wetlands or watercourse which occur on the property as defined in Section 2.2., and that no reasonable or prudent alternative exists to the proposed plans.

The Commission makes a Summary Ruling and grants a permit and gives permission for the applicant to proceed with the proposed activity as stated on said application and as shown on plans accompanying the application, subject to the following conditions:

1. In accordance with the Commission's Regulations section 11.8, the activity pursuant to said permit shall be for a period of 5 years from the permit's effective date with allowed activity occurring between March 15<sup>th</sup> and October 15<sup>th</sup> of the year of initiation.
2. Should the applicant determine that the permitted activity will not be completed between March 15<sup>th</sup> and October 15<sup>th</sup> of the year of initiation, the applicant agrees to appear before the Commission prior to October 15<sup>th</sup> and present a plan for the stabilization of the site during the months of no activity.
3. The applicant agrees to follow the advice and direction of the Town of Essex Enforcement Officer with regard to any field changes she/he deems necessary or may require for the protection of the inland wetlands and water course during the process.
4. 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 E Cook; **Voting in Favor:** D Kirsch, E Cook, N Brennan-Rowe, C Field, and L Krall;  
**Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0; **Discussion:** No Discussion

- c. **IWWC Application 23-07 1 Teal Lane, Essex** Construction of a timber and pile ramp connecting to an upland embankment outside of the wetlands to a DEEP permitted dock and through the wetlands. *Property Owner/Applicant: Carter and Carla Gowrie*

Robert Shickel was in attendance to represent the applicants. He gave a brief overview of the project that was presented at the last meeting. The applicants are hoping to connect their recently constructed dock to the land.

**MOTION** made by N Brennan-Rowe Based on the information presented in this application IWWC #23-07, the accompanying documents in the record, and on the testimony given at this meeting, the Commission finds that the proposed activity is a regulated activity not involving significant or major effect upon the inland wetlands or watercourse which occur on the property as defined in Section 2.2., and that no reasonable or prudent alternative exists to the proposed plans.

The Commission makes a Summary Ruling and grants a permit and gives permission for the applicant to proceed with the proposed activity as stated on said application and as shown on plans accompanying the application, subject to the following conditions:

1. In accordance with the Commission's Regulations section 11.8, the activity pursuant to said permit shall be for a period of 2 years from the permit's effective date with allowed activity occurring between March 15<sup>th</sup> and October 15<sup>th</sup> of the year of initiation.
2. Should the applicant determine that the permitted activity will not be completed between March 15<sup>th</sup> and October 15<sup>th</sup> of the year of initiation, the applicant agrees to appear before the Commission prior to October 15<sup>th</sup> and present a plan for the stabilization of the site during the months of no activity.
3. The applicant agrees to follow the advice and direction of the Town of Essex Enforcement Officer with regard to any field changes she/he deems necessary or may require for the protection of the inland wetlands and water course during the process.
4. 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 C Field; **Voting in Favor:** D Kirsch, E Cook, N Brennan-Rowe, C Field, and L Krall; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0; **Discussion:** No Discussion

- d. **IWWC Application 23-09 118 Ingham Hill Road, Essex** Construct a house, driveway, sanitary system and pond on existing vacant lot. Pond and driveway will be within 100 feet of a wetlands. *Property Owner/Applicant: Gregory and Mikaela Zito*

Robert Doane, PE was present on behalf of the Zitos.

He started by addressing the comments that they had received on the site walk. He said that there is a narrative included in the packet along with a revised site plan to show the proposed activity. They have added an overflow spillway with modified riprap. The reason for the spillway is that a groundwater pond may overflow if there is an abundance of rainfall.

A profile of the pond was also presented showing the existing grade and the proposed grade that follows the wetland. It would be 14 feet deep in the center. He would like a provision to aerate the pond during dryer months.

**Exhibit A:** Proposed Pond Maintenance Plan dated 7/11/23 prepared by Doane Engineering

**Exhibit B:** Proposed Pond Construction Narrative dated 7/11/23 prepared by Doane Engineering

He went on to say that they will flag the clearing limits for the tree cutters. They will cut and chip, not taking out any stumps. Once the trees are removed, they can install silt fence. After that they can take out the stumps and remove them from the site. They will strip the top layer of soil and stockpile it. Next, they will dig the pond to a depth of about 4 feet from the existing grade, to get it close to the ground water. The material removed from inside the pond will be used to help construct the embankment for the driveway. At the same time, they will install the stone outlet swale. Once they start the pond construction and the embankment is installed for the driveway, they will then be able to get to the back of the property to continue the rest of the construction.

R Doane said that he would like to request that they be able to work after October 15. They will be able to get the pond down to 4 feet below grade before then and most of the work is outside the 100-foot upland review area. Most of the activity occurring in the review area after the initial work

will be driving to/from the house location. He would also like to leave 1 test hole in the center of the pond to monitor the water level.

**MOTION** made by N Brennan-Rowe based on the information presented in this application IWWC #23-09, the accompanying documents in the record, and on the testimony given at this meeting, the Commission finds that the proposed activity is a regulated activity not involving significant or major effect upon the inland wetlands or watercourse which occur on the property as defined in Section 2.2., and that no reasonable or prudent alternative exists to the proposed plans.

The Commission makes a Summary Ruling and grants a permit and gives permission for the applicant to proceed with the proposed activity as stated on said application and as shown on plans accompanying the application, subject to the following conditions:

1. In accordance with the Commission's Regulations section 11.8, the activity pursuant to said permit shall be for a period of 2 years from the permit's effective date with allowed activity occurring between March 15<sup>th</sup> and October 15<sup>th</sup> of the year of initiation.
2. Should the applicant determine that the permitted activity will not be completed between March 15<sup>th</sup> and October 15<sup>th</sup> of the year of initiation, the applicant agrees to appear before the Commission prior to October 15<sup>th</sup> and present a plan for the stabilization of the site during the months of no activity.
3. The applicant agrees to follow the advice and direction of the Town of Essex Enforcement Officer with regard to any field changes she/he deems necessary or may require for the protection of the inland wetlands and water course during the process.
4. 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
5. The pond elevation will be excavated down to below 4 feet from the existing grade by October 15, 2023. Any additional work in the pond area cannot be completed between October 15, 2023 and March 15, 2024.
6. An aerator may be installed in the pond.

**SECONDED** by E Cook; **Voting in Favor:** D Kirsch, E Cook, N Brennan-Rowe, C Field, and L Krall; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0; **Discussion:** No Discussion

## 6. Receipt of Applications/New Business

- a. **IWWC Application 23-11 9 River Road Essex** Proposal to remove and treat the invasive plant Japanese Knotweed located within a wetlands *Property Owner: Anne Kingston and Steven Schneider*

A Kingston and S Schneider were in attendance via Zoom. A Kingston gave a brief overview saying that they had R Snarski come out and evaluate the area. HE recommended that they have All Habitat come out and the plan that they proposed would take about 3 years. All work would be done with hand mowers and purposeful spraying of the knotweed.  
Annie Kingston and Steven Schneider via Zoom

**MOTION** made by N Brennan-Rowe to schedule Application 23-11 9 River Road Essex for the August 8, 2023 regular meeting.

Per section 7 of the Inland Wetlands and Watercourses regulations: 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 **and does not appear to have a significant impact or major effect**, as defined in Section 2.2 of the regulations on a wetlands or watercourse.

**SECONDED** by C Field; **Voting in Favor:** D Kirsch, E Cook, N Brennan-Rowe, C Field, and L Krall; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0; **Discussion:** No Discussion

- b. **IWWC Application 23-12 Heron Pond Road Essex** Proposal to construct a house with attached garage; activity includes clearing, grubbing, excavation, filling, grading, and planting located within 100 feet of a wetlands. *Property Owner: Robert J. and Lynn S. Keller*

R Doane presented on behalf of Robert and Lynn Keller

C Duques spoke briefly about the application. She said that this is the 1<sup>st</sup> lot on the left as you turn onto Heron Pond Road. It is a 1.37 acre L Shaped lot. Because of this the house will be oriented northwest to southeast. Two garages and the driveway will run down the northeast side of the property. The embankment along the edge of the driveway is in the 100-foot review area. The bank will be mulched and planted with native plants. Water runoff from the roof will be directed to the rain gardens.

**MOTION** made by C Field to schedule Application 23-12 Heron Pond Road Essex for the August 8, 2023 regular meeting

Per section 7 of the Inland Wetlands and Watercourses regulations: 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 **and does not appear to have a significant impact or major effect**, as defined in Section 2.2 of the regulations on a wetlands or watercourse.

**SECONDED** by N Brennan-Rowe; **Voting in Favor:** D Kirsch, E Cook, N Brennan-Rowe, C Field, and L Krall; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0; **Discussion:** No Discussion

**7. Section 12 Action by Duly Authorized Agent**

- a. **Approval by Agent of 45 Falls River Drive Ivoryton replacement of 8’X10’ shed.**  
C Duques said that the commission had given her authority to act on this application.

**8. Other Business**

None

**9. Correspondence and Invoices**

None

**10. Reports:**

- a. **Wetlands Official**  
**Update on Open Permits**  
No Updates
- b. **Chairperson**  
None

**11. Update from Attorney Regarding Pending Litigation**

Nothing new to report

**12. Adjournment**

**MOTION** made by C Field to adjourn the meeting at 8:29 PM; **SECONDED** by N Brennan-Rowe; **Voting in Favor:** D Kirsch, E Cook, N Brennan-Rowe, C Field, and L Krall; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0; **Discussion:** No Discussion

Respectfully Submitted,

*Danielle Schumacher*