



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

June 13, 2023 Regular Meeting Minutes

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

| Staff: | |
|---------------|----------------------------------------------------|
| | Danielle Schumacher, Recording Clerk |
| | Robert Doane Jr., PE- Wetlands Enforcement Officer |
| | Carey Duques, Land Use Official |
| | Sylvia Rutkowska, Commission Attorney |

| Audience: | |
|------------------|---------------------------------------------------------------------|
| | Mikaela Zito- 118 Ingham Hill Road |
| | Gregory Zito- 118 Ingham Hill Road |
| | Kim Winchell- 33 Falls River Drive |
| | Barbara Sarrantonio- 45 Falls River Drive |
| | Robert Schickel- Representing Application 23-07 |
| | Frank Perrotti- 46 Main Street Ivoryton |
| | Michael D'Occhio- 1 Johnnycake Lane |
| | James Sipperly- Soil Scientist representing 46 Main Street Ivoryton |

1. Call to Order and Seating of Members

The meeting was called to order at 7:00 PM by Chairman Michael Furgueson.

Seated for the meeting were Chairman Michael Furgueson, Vice Chairman David Kirsch, Ernest Cook, Noreen Brennan-Rowe, and Carolyn Field (alternate).

2. Approval of Minutes

a. May 9, 2023 Regular Meeting Minutes

MOTION made by E Cook to approve the minutes from the May 9, 2023 regular meeting with the following amendments

- Page 3 #4- add a period at the end of the sentence
- Page 4 Section 2-

SECONDED by N Brennan-Rowe; **Voting in Favor:** M Furgueson, D Kirsch, E Cook, N Brennan-Rowe, and C Field; **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 33 Falls River Drive, Ivoryton Removal and replacement of a dock in Mill Pond without a permit. *Property Owner: Susan T. Winchell*

C Duques gave a brief summary of what transpired. On Friday June 2nd she went out to the property after receiving a call from a concerned citizen questioning if a permit had been issued. C Duques spoke to one of the property owners after seeing that the dock had already been installed. There is no erosion or any issues regarding soil getting into the water. She informed the property owner that no additional work should be done. Work was stopped and K Winchell was in her office an hour later with an application. K Winchell is hoping to add soil and bluestone for a smoother transition from the lawn to the dock.

D Kirsch questioned who owns the lake. GIS shows property line ending at the shoreline. Not sure if there is a homeowners' association that manages it. DEEP has always deferred to the town on this.

Barbara Sarrantonio of 45 Falls River Drive stated that nobody knows who owns the entire pond. Some lots go into the pond and some go up to the edge, she stated

D Kirsch asked if the Winchells can build a dock if it's not their land?

Property owner K Winchell spoke to the Commission. He said that there has been a dock at that location since the house was built by his father-in-law in 1978. He made an assumption that he was replacing a dock that had been there for 30-40 years. The dock is approximately 24 feet long. They have reduced the number of piles for the dock from 6 down to 2. He went on to say there is no information on who owns or oversees the property or the pond. The land map shows the area in front of their property as originally owned by the Mitchells. Further research showed that originally their property was going to include the adjacent property but was changed at the last minute to include the waterfront.

R Doane commented that he agrees with what was said previously and that it really isn't clear as to who owns the pond. There had been a question on ownership after the 1982 flood and it was never resolved.

C Duques said that both the application and fee were submitted and it was complete..

MOTION made by D Kirsch to withdraw the cease and desist for 13 Falls River Drive in Ivoryton; **SECONDED** by E Cook; **Voting in Favor:** M Furgueson, D Kirsch, E Cook, N Brennan-Rowe, and C Field; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0; **Discussion:** No Discussion

- b. **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 Docchio*

C Duques explained that she received a call from a neighbor on June 2nd stating work was being done at the Copper Beech Inn and asking whether permits were obtained. C Duques went out to the property that day and observed that the area behind the guest houses at the Copper Beech Inn had been cut down and the area disturbed. An excavator had removed trees, ripping them out including roots. She met with F Perotti and explained that they needed to stop all work since no permits had been issued for the work which was in or near wetlands and a watercourse.. She went back to the office and looked through the file where she found a site map showing the area had been flagged as wetlands in 2006; a large portion of the area behind the guest houses was shown as wetlands on the 2006 plan. C Duques also pointed out that the owner had previously obtained in 2021 a IWWC permit to install a shed in the upland review area.

R Doane said that he met with F Perotti that Saturday morning and showed him a copy of the plan with the wetlands. He getting a soil scientist to flag the wetlands and a survey to show the extend of the activity. R Doane also suggested that the soil scientist indicate on a survey where sedimentation control should be installed. He and C Duques will work with the property owner and its expert to make sure sedimentation and erosion controls are installed appropriately. The bare soil in the watercourse has not moved between the original disturbance on June 2 and the meeting, as there has not been a lot of rain recently. R Doane went on to point out that the stream does leave the property and go onto 1 Johnnycake Lane which is owned by the D'Occihios. Property owner M. D'Occhio became aware of the work as he was driving by and was initially pleased to see work was happening as the area was very overgrown.

M D'Occhio said that he shares the common drive of Johnnycake Lane and that he owns 25 feet of frontage. He did not realize that he owned this wide of an area. .

C Duques clarified for the commission that if you drive up Johnnycake Lane to the rear of the Copper Beech Inn near the guest houses you will see the stream between Johnnycake Lane and the guest houses. There is a pond on M D'Occhio's property that she believes feeds the stream.

F Perotti, owner of the Copper Beech Inn, spoke to the commission. He said that the activity that took place was very well summarized by C Duques and R Doane. The activities were preparation for a project that they had planned to put in additional parking and a patio area.

M.Furgueson reiterated that no permits had been issued for any projects at this time. F Perotti confirmed he did not have a permit. F Perotti explained they were not planning to start the project, only clearing the area. He said that there was no delineation on the property as to where the wetlands were, only on a map. When he instructed the contractor on what to clear they spilled onto Mr. D'Occhio's land.

Soil Scientist J Sipperly spoke as a representative of Spartan Associates. He outlined the work that he has completed since they had retained his services. He flagged and delineated a portion of the wetlands.He said he focused his investigation along the watercourse corridor. He stated

that there were trees and vegetation with a lot of Japanese Knotweed and Multiflora Rose. The soil was not disturbed for the majority of the area and there was a clear cut down to the stream. He also commented that there were a lot of large boulders that had been moved, some into the stream.

He said that he found some of R Snarks's original flags when he was delineating the wetlands previously. There had clearly been some deposits of material into the watercourse and as of yesterday nothing had migrated. J Sipperly stated they will get hay bales across the centerline where Johnnycake Lane comes off Main Street., as an emergency measure. A survey will locate flags and make a sedimentation plan. The area with the large boulders will need to be restored. They will come up with a planting plan of appropriate shrubs and trees. He recommends continuing the cease and desist until they can get a plan and can put in emergency erosion and sedimentation controls.

Exhibit A- 2006 Survey done Angus McDonald

Exhibit B- Photo of boulders submitted by James Sipperly (Wetlands Scientist)

R Doane spoke and said that he does not think that they can wait for another meeting and that he does not think that the contractor on site is capable of doing the installation of the erosion and sedimentation (E&S) controls. It needs to be done immediately by a competent contractor. They need to get E&S across the brook, so the soil doesn't move.

J Sipperly said that they can have E&S completed by the end of the week and that the most immediate need is to prevent the sediment from migrating.

S Rutkowska said that remediation would be on both properties and that there can be one application as long as both parties' consent.

MOTION made by D Kirsch to amend the cease and desist to allow for emergency erosion and sedimentation controls to be overseen by the Land Use Official and Wetlands Enforcement Officer; **SECONDED** by N Brennan-Rowe; **Voting in Favor:** M Furgueson, D Kirsch, E Cook, N Brennan-Rowe, and C Field; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0; **Discussion:** No Discussion

MOTION made by D Kirsch to continue the show cause hearing to the July 11, 2023 IWWC meeting; **SECONDED** by C Field; **Voting in Favor:** M Furgueson, D Kirsch, E Cook, N Brennan-Rowe, and C Field; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0; **Discussion:** No Discussion

5. Unfinished Business/Action Items

- a. **Cease and Desist Show Cause Hearing 33 Falls River Drive, Ivoryton** Removal and replacement of a dock in Mill Pond without a permit. *Property Owner: Susan T. Winchell*

Addressed earlier in the meeting

- b. **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*

Addressed earlier in the meeting

- c. **Notice of Violation 9 River Road Essex** Relating to the cutting of vegetation within wetlands and the upland review area without a permit. *Property Owner: Anne Kingston and Steven Schneider; Abutting Property Owner: Colette and Peter Harron*

C Duques said that she spoke to C Heron on Friday. She received a letter from R Snarski delineating the area as a wetland. R Snarski recommended that the knotweed should be sprayed, which would require a DEEP permit. She stated no further work should take place on the site until a DEEP and IWWC permit is obtained.

6. **Receipt of Applications/New Business**

- a. **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*

MOTION made by N Brennan-Rowe to schedule Application 23-06 52 West Avenue, Essex for the July 11, 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 E Cook; **Voting in Favor:** M Furgueson, D Kirsch, E Cook, N Brennan-Rowe, and C Field; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0; **Discussion:** No Discussion

- b. **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*

R Shickel spoke to the commission on behalf of the property owners. He explained that this property is immediately to the right on Teal Lane when you come off of Bushnell Street. The purpose of the application is to connect the end of the dock (permitted by DEEP) to the land. The entire area is within the 100-foot upland review area. The property owners are consulting with R Doane and C Duques and trying to use the existing documentation on the land record. R Shickel showed a survey done by Indigo Engineering in 2021 annotated to show the dock and location of the proposed ramp, which would be made of timber and pile. The applicant is also proposing, and DEEP has permitted, low lighting on the piles for safety purposes to light the ramp and walkway.

MOTION made by N Brennan-Rowe to schedule Application 23-07 1 Teal Lane, Essex for the July 11, 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 E Cook; **Voting in Favor:** M Furgueson, D Kirsch, E Cook, N Brennan-Rowe, and C Field; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0; **Discussion:** No Discussion

- c. **IWWC Application 23-08 45 Falls River Drive, Ivoryton** Replacement of an existing shed, approximately 8X10, with same size shed at existing location within 100 feet of wetlands. *Property Owner/Applicant: Barbara A. Sarrantonio*

Property owner Barbara Sarrantonio spoke to the commission. She said that the existing shed is not worthy of repair and that the new shed she hopes to install is slightly smaller. Her lot is very unique with a creek on one side, inlet on another, and Mill Pond on another. C Duques included a photo in the packet. The applicant will be reusing the concrete pad that the current shed is on. Atlas Fencing will be installing and anchoring it to the pad. The septic tank is in the front of the house so they would need to go across the back of the property to install.

MOTION made by N Brennan-Rowe for the Essex Inland Wetlands and Watercourses Commission to allow it's wetlands agent to handle Application No. 23-08 45 Falls River Drive, Ivoryton; **SECONDED** by E Cook; **Voting in Favor:** M Furgueson, D Kirsch, E Cook, N Brennan-Rowe, and C Field; **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*

R Doane is representing the property owners and spoke on their behalf. Greg and Mikaela Zito the property owners were in attendance via Zoom/

R Doane said that he was involved primarily because he surveyed the original owner's property. The Zitos purchased roughly 20 acres and are proposing a house, driveway, sanitary system, and pond. The driveway and pond would be within 100 feet of the wetland. He said that he had R Snarski flag the wetland and look for vernal pools. He was concerned about the swale that runs up the left of the driveway but R Snarski checked and it is not a wetland. The proposed driveway runs along the left side of the property. They moved it out because there are nice trees in the area they want to preserve.

He went on to say that plans will include a profile view and indicate where stockpiles will be located. Any materials not used on the embankment will be removed from the property. 50 feet between open water and the septic system will be maintained.

MOTION made by N Brennan-Rowe to schedule Application 23-09 118 Ingham Hill Road, Essex for the July 11, 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 E Cook; **Voting in Favor:** M Furgueson, D Kirsch, E Cook, N Brennan-Rowe, and C Field; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0; **Discussion:** No Discussion

Commission members scheduled a site walk for Monday June 26, 2023 at 4:30 PM

- e. **IWWC Application 23-10 33 Falls River Drive, Ivoryton** Removal and replacement of a dock in Mill Pond. *Property Owner/Applicant: Susan T. Winchell*

MOTION made by N Brennan-Rowe for the Essex Inland Wetlands and Watercourses Commission to allow the wetlands agent to handle Application No. 23-10 33 Falls River Drive, Ivoryton; **SECONDED** by E Cook; **Voting in Favor:** M Furgueson, D Kirsch, E Cook, N Brennan-Rowe, and C Field; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0; **Discussion:** No Discussion

7. Section 12 Action by Duly Authorized Agent

C Duques that the commission had allowed her to act on the application for a deck addition for 66 Dennison Road. The work had been completed and approved.

8. Other Business

None

9. Correspondence and Invoices

None

10. Reports:

- a. **Wetlands Official**

- i. **Update on Open Permits**

- None

- b. **Chairperson**

- None

11. Update from Attorney Regarding Pending Litigation

MOTION made by D Kirsch to enter into executive session at 8:52 PM; **SECONDED** by C Field; **Voting in Favor:** M Furgueson, D Kirsch, E Cook, N Brennan-Rowe, and C Field; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0; **Discussion:** No Discussion

MOTION made by D Kirsch to leave executive session at 9:18 PM; **SECONDED** by N Brennan-Rowe; **Voting in Favor:** M Furgueson, D Kirsch, E Cook, N Brennan-Rowe, and C Field; **Opposed:** None; **Abstaining:** None; **Approved:** 5/0/0; **Discussion:** No Discussion

12. Adjournment

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

Respectfully Submitted,

Danielle Schumacher

Recording Clerk