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**MINUTES**

ENFIELD INLAND WETLANDS AND WATERCOURSES AGENCY

**TUESDAY, June 6, 2023, 7:00PM**

REGULAR MEETING

Council Chambers; 820 Enfield Street, Enfield, CT 06082

**1. Call to Order**

Chair Zorda called the meeting to order at 7:00 P.M.

**3. Roll Call**

Members present: Commissioners, Kevin Zorda (Acting Chair), Virginia Higley, Robert Hendrickson, Nancy Martin, and Phil Kober.

Members absent: Chairwoman Corbin-Sobinski, Commissioner Anne Collins, and Alternate Commissioner Sean Deane.

Also, present Georgianna Driver, Assistant Town Planner and Sandie Barone, Recording Secretary.

Commissioner Higley made a motion to move item **13. Report of Planning Staff** to 7a., seconded by Commissioner Hendrickson.

**Motion passed unanimously.**

**6. Approval of Minutes:**

**a. May 16, 2023**

Commissioner Higley made a motion to approve the minutes from May 16, 2023, seconded by Commissioner Phil Kober.

Discussion: Commissioner Hendrickson stated that on page 4, 38 Post Office Road, did the agency discuss that the applicant does nothing until they submit a formal application or did, they agree on seeding.

Commissioner Kober made a motion to table the minutes from May 16, 2023, seconded by Commissioner Higley.

**Motion passed with a 5-0-0 vote.**

**7a. 13. Report of Planning Staff-Updates**

1. Ms. Driver stated that the Jarmoc family has purchased property above 139 Town Farm Road, they have filled out the DPN application. The area is wooded and they wish to clear it for cropland. Ms. Driver received an email from their attorney, Derrick Donnelly, with a map. (Copies handed out to the agency)

2. They received a Supreme Court decision on the Clean Water Act, it's an update on what is going on in the Federal world with the Clean Water Act. They are currently questioning navigable

waters of the United States and are trying to figure out where the federal determination lies between Army Corp of Engineers and the EPA. They are not sure how or if this will affect the state or municipal jurisdiction of wetlands.

3. The land use training on June 1<sup>st</sup>, it was mentioned by the Chair of Wetlands and Commissioner Higley that they would like an executive session for July 18· 2023, to go over all the legal opinions on the DPN's not having a petition period and when to require consultants for applications. July 18· 2023, is the date the Town Attorney can attend.

**8. Continued Public Hearings:**

**a. IW# 677 - 92 Post Office Road- Application for the development of a single-family home; Windbrook Homes LLC, Owner/Applicant; Map 47/ Lot 10; R-44 Zone.**

Ms. Driver gave an update on her staff report for 92 Post Office Road. At the May 2, 2023, meeting the Wetlands Agency requested an off-site delineation for 90 Post Office Road, lot 1. Staff requested a legal opinion the next day to verify that there is no statutory authority that gives the Inland Wetlands Agency the power to require any work off-site on property owned by third parties such as the Town. An email was received from the Town Attorney stating that this is true. The town of Enfield has denied permission for the soil scientist to access 90 Post Office Road. The checklist on the wetlands application states wetlands located on adjacent properties with an approximately 100 feet of subject property must be removed from the Inlands Wetlands Watercourse Agency application. The requirements under section 17.2 state if there is a conflict between the provisions of these regulations and the provisions of the Act, the provisions on the Act shall govern. Additionally, Ms. Driver quoted the state definition of Wetlands in Connecticut. Ms. Driver read the updated staff report on 92 Post Office Road, the applicant has submitted an 8<sup>th</sup> revised plan showing a natural swale between 94 and 92 Post Office Road, also he wishes to propose a conservation easement to the North side between the boundaries of 90 and 92 Post Office Road. Staff strongly believe that the applicant has met or exceeded all applicable regulations and requirements for a single-family home.

Commissioner Kober asked about the timeline for this application. Ms. Driver indicated that applicant gave one extension on May 16, 2023, and that today is the last day to close the public hearing, at which time the agency has 35 days to decide. However the public hearing can be continued if the applicant requests it.

Attorney Richard Case introduced himself. He is the attorney for the applicant, Mr. von Hollander. Mr. von Hollander went over the revisions made to the plan including the proposed dry well and conservation easement. The easement will be recorded in the Town records.

Chair Zorda gave instructions to the public on communication for the public hearing and asked the one member to speak.

Michelle Menard, 94 Post Office Road. Ms. Menard spoke about her conversation with the applicant about her concerns with storm water on her property. The applicant has taken the recommendations from Jeffrey Bord and added them to his plan. She feels that the board and applicant have been willing to consider all the information. She expressed her concerns with town staff during the hearing process. She stated that it appeared to her that staff have been undermining the board's ability to decide in a fair and impartial manner due to their own involvement with the property. She stated that it appears that town staff have been giving the board inaccurate and biased information to get the application approved. She expected fairness from the government employees such as the town staff. She gave an example of the legal opinion that the staff requested from the Town Attorney on this application. She stated that this email is false and misleading based on the information from the packet. She stated that the first issue is that the email is labeled legal opinion but, in the packet, it says it can not be a legal opinion because neither the agency nor the applicant has requested it. The second concern is the response from the Town Attorney, Ms. Menard stated that she found 2 court cases referencing the applicants were required to complete activities on third party property. Ms. Menard reiterated that her concerns with the application have been addressed, however she has concerns with the town staff, with what appeared to be a lack of fairness and impartiality by town staff.

Ms. Driver read the email into the record for clarification. (Email included in packet) She stated it was not labeled as legal opinion, but rather Request for Legal Opinion. She stated that staff remains neutral throughout the process and that staff have a primary duty to the public, the agency, and the applicant. She stated that staff makes sure the applications satisfy the regulations, not whether or not staff "wants" an application approved as staff remains an unbiased and neutral party.

Commissioner Zorda thanked Ms. Driver for the clarification.

Commissioner Higley made a motion to close the public hearing, seconded by Commissioner Kober.

**Motion passed with a 5-0-0 vote.**

Chair Zorda stated that he feels like the applicant has gone far above and beyond for this application.

Commissioner Kober stated that since the public hearing has been closed that they cannot accept new information and he urges the agency to make a decision tonight.

Commissioner Martin thanked the applicant and the public for exercising their right to explain both sides.

Commissioner Kober made a motion to approve **IW# 677 - 92 Post Office Road** with a site-specific condition: final plan will show the conservation easement location, seconded by Commissioner Martin.

Discussion: Commissioner Kober stated that the public made comment that there was a misinterpretation of some of the statutory law. Section 22a-44 requires municipal regulation of wetlands and what empowers local ordinances and regulations. Commissioner Kober looked at Section 5(k)-2 of what we require for applications. He had a concern with what is noted as indicating adjacent lands and adjacent regulated areas.

Ms. Driver thanked Commissioner Kober for bringing this to their attention and when the regulations are reviewed, they will address that concern.

**The motion passed with a 5-0-0 vote.**

## **10. Old Business**

### **Determination of Permit Needed**

a. **DPN# 2023-03-24D -147 Abbe Road** - Request for a Jurisdictional Ruling for the expansion of the existing pond; Jarmoc Tobacco, LLC, Applicant; Jarmoc Real Estate, LLC, Owner; Map 85/ Lot 16; R-44 Zone. TABLED

Commissioner Kober made a motion to remove 147 Abbe Road from the table seconded by Commissioner Hendrickson.

**Motion passed with a 5-0-0 vote.**

Attorney Donnelly spoke on behalf of the applicant. This DPN is part of an enforcement action and as part of this in conversation with the Commission and staff his client hired a soil scientist.

Commissioner Kober asked for clarification on the address of the property, the soil scientist report states 151 Abbe Road.

Per attorney Donnelly it should read 147-151 Abbe Road.

Mr. Zulick read his report dated June 1, 2023, to the Agency. Report was stamped into the record.

Chair Zorda stated that they should give staff an opportunity to review the report.

Commissioner Higley made a motion to table **DPN# 2023-03-24D -147 Abbe Road**, seconded by Commissioner Kober.

**Motion passed with a 5-0-0 vote.**

## **11. New Business**

a. **IW# 680 - 7 Betty Road-** Application for an in-ground pool; Nadia Wright, Applicant; James Terry and Leeana O'Neill, Owners; Map 62/Lot 37; R-33 Zone

Nadia Wright presented the plan for an inground pool at 7 Betty Road. If the soil is of good use, they will reuse it for grading and backfilling. Silt fencing will be installed prior to work starting. The homeowner has an option to use their services to maintain the pool.

Ms. Driver suggested that they adjust the silt fencing to go around the east and south side of the temporary soil stockpile. The pool patio construction needs to be adjusted, it should be located less west and more towards the east and south sides.

Commissioner Kober made a motion to approve **IW# 680 - 7 Betty Road-** Application for an in-ground pool; with site specific conditions, seconded by Commissioner Martin.

1. Silt fencing will be included around the east and south sides of the property, the temporary soil stockpile and pool patio construction area.

**Motion passed with a 5-0-0 vote.**

b. **IW# 681 - 10 Patricia Circle-** Application for an in-ground pool; Nadia Wright, Applicant; James and Jenna Herrick, Owners; Map 70/Lot 66; R-88 Zone

Nadia Wright presented the plan for an inground pool 10 Patricia Circle. She stated that she did not believe there were any wetlands concerns but the escarpments. The pool will be located outside the escarpment area. If the soil is of good use, they will reuse it for grading and backfilling. Silt fencing will be installed prior to work starting. If they need to drain the pool for any reason, the company has water trucks that will come in and drain the pool. The water will not be drained into the escarpments.

Commissioner Kober made a motion to approve **IW# 681 - 10 Patricia Circle-** Application for an in-ground pool, seconded by Commissioner Higley.

**Motion passed with a 5-0-0 vote.**

c. **IW# 682 - 25 First Ave-** Application for the development of a single-family home; James Ussery, Applicant Representative; Joseph and Ann-Marie Klimek, Owners; Map 36/Lot 321; R-33 Zone

Jay Ussery associate representing applicants gave an overview of the history of this parcel of land that has been in the family for over 40 years. The house to be built will not have an impact on wetlands. Delineation was done in 2014 however a report was not generated. The home will be a raised ranch with two car garages.

Commissioner Kober asked Mr. Ussery to explain the change in runoff. The site plans change the runoff southeast to northwest now to northeast to east.

Mr. Ussery stated it will continue to runoff into the wetlands, there will be no pattern change.

Ms. Driver gave her staff report. There is no requirement for a delineation report. The wetlands were flagged and they see no issues with it. She recommends site specific conditions to include silt fencing along the proposed 116 contour toward the south side of the property and if the agency decides to add the conservation part as well.

Ms. Driver stated that recommending the adding of the conservation medallions meets one of their POCD goals to preserve and protect wetlands.

Commissioner Kober made a motion to approve **IW# 682 - 25 First Ave-** Application for the development of a single-family home, with site specific conditions, seconded by Commissioner Martin with two site-specific conditions.

**Motion passed with a 5-0-0 vote.**

d. **IW# 683 - 7 Lois Lane** - Application for a pool deck and shed; David and Jacqueline Rustic, Applicant/Owner; Map 53/Lot 368; R-33 Zone

David Rustic, the property owner gave an overview of the plan for the pool deck and shed. The shed is for storage of pool materials and pool chemicals.

Commissioner Kober asked for clarification on the placement of the shed. Will the shed be on a slab, will they be excavating? Mr. Rusitic stated no excavation, there will be 8 inches of crushed gravel.

Ms. Driver added that a site-specific condition to have silt fencing around the construction area for the deck and shed.

Commissioner Kober made a motion to approve **IW# 683 - 7 Lois Lane** - Application for a pool deck and shed; seconded by Commissioner Higley.

**Motion passed with a 5-0-0 vote.**

e. Informal Discussion with 100 Bright Meadow Blvd-Information Discussion to review Project with IWWA.

John Furman, VHB-Springfield, and Jeff Shamus director of environmental services and Andy Borgia, the developer of the project. The plans are for the old Mass Mutual Property, the project is to redevelop this property as a sports complex with 10 soccer fields, hotel, indoor field, basketball courts and pickle ball courts. The total project area is 69.4 acres, 10.2 acres of wetlands. The impervious areas total 21.7 acres. To start the project they started an existing conditions survey which VHB has been a part of with Mass Mutual as a client. VHB surveyed the property back in 2010-11 to assist Mass Mutual with building the garage. Jeff and his staff delineated the areas indicated on the map two months ago. They will be adding a new building about 141,000 square feet for indoor turf field and basketball

courts. The existing parking areas will be replaced by soccer fields. (11 fields) Mass Mutual saw about 3,000 cars a day coming in, it will be a fraction of this with the project. There are five wetland impacts which he went over on the map. The first one is around the area of the proposed new building. (12,500 square feet) the second one, west of the new building is 1,900 square feet, the third one is 700 square feet, fourth one is larger about 142,000 square feet and lastly the fifth area is 1,800 square feet. They will be impacting about 6.25 acres of wetlands.

Jeff Shamus discussed the wetlands history and discussed the current wetlands. He presented a map from 1934. Andy is proposing to donate to the town, not sure of the acreage but there is a trail that runs along Brainard Park and the property line. Another example would be to remove the beaver dam and restore it and lastly to donate funds enough to cover freshwater pond every 5 years.

Chair Zorda asked if the fields are real or artificial. If they are artificial, how will they drain. Mr. Furman stated that they will have an engineered drainage.

Commissioner Martin asked if fields 9,10,11 could be removed or moved to another area. For this project to work they need 12 fields, 11 outside and one inside.

Commissioner Kober asked if there was a way to incorporate recreating wetlands. Jeff stated that he has looked at ways of restoring and or recreating, however it would impact the upland areas.

Commissioner Kober asked if there will be another access road. Mr. Furman stated that the main entrance will be the continue to be the entrance for this proposed project. They will have a

**12. Enforcement Report (s):** Nothing to report

**14. New Applications to be Received:**

a. **IW# 684 -210 Moody Road** -Application for a subdivision; Top-Knot, LLC, Applicant/Owner; Map 00/ Lot 11; I-1 Zone.

**16. Adjournment:** Commissioner Kober made a motion to adjourn, seconded by Commissioner Higley.

**Motion passed by a show of hands 5-0-0 vote.**

Meeting adjourned at 8:57 pm

Prepared by: Sandie Barone  
Respectfully Submitted,

Virginia Higley, Secretary