

TOWN OF ESSEX
Inland Wetlands and Watercourses Commission
29 West Avenue
Essex, CT 06426
essexct.gov

MINUTES

February 14, 2012

Call to Order and Seating of Members

The regularly scheduled meeting of the Essex IWWC was conducted on February 14, 2012 in the Auditorium, of the Essex Town Hall at 7:30 p.m. Those members in attendance for both the Public Hearing and for the regular meeting were Chair, Daniel Lapman, Vice Chair, Chuck Corson, Claire Tiernan, Barbara Zernike, Fred Szufnarowski, Stephen Knauth and Nancy Arnold. Also in attendance were Stella Beaudoin, Recording Secretary and Joe Budrow, Wetlands Enforcement Agent and Zoning Enforcement Agent.

Mr. Lapman called the Public Hearing to order at 7:30 p.m.

Public Hearing

- **Consideration of Application 12-1 for property located at 1 Foxboro Road, Essex, CT, Assessor's Map 16 Lot 12. The property is owned by Ellen Croft Craft and Roberta Croft Ellis. The applicant is Frank J. Sciame, Jr.**

Mr. Budrow read into the record the Legal Notice which was published in the Hartford Courant on February 2nd and February 9, 2012.

This is an application to allow a 7-lot subdivision on an existing 11.04 acre parcel. There are no inland wetlands present on the property other than the fringe of the tidal wetlands that is present along the shore of the North Cove. Each parcel involved in the proposed subdivision will have a 100' upland review area for North Cove. All of the proposed lots are frontage lots so no new roads or common driveways are proposed. Installation of a driveway and an underground utility relocation for the adjacent windmill house property is proposed.

Attorney Terrance Lomme presented on behalf of the applicant Fred Sciame. Mr. Lomme stated that there is currently a house on the property which is part of the 7 lot subdivision consisting of 11 acres. The property is bounded on the south by North Cove. The property was flagged by Richard Snarski, Soil Scientist. Mr. Lomme noted that there are no inland wetlands on the property. Mr. Lomme indicated that the applicant proposed to restrict the first 150 feet with a conservation easement which covers all of the 7 lots of the subdivision. The easement is proposed to be 150 feet from North Cove, inland.

A petition was filed the day after the application was filed and per CT General Statute a public hearing is required.

Joseph Wren, P.E. presented. Mr. Wren noted that there have been a few changes made from the original plan, none of which affect the wetlands on, or adjacent to this property. Mr. Wren reiterated that this subdivision will be comprised of 7 lots; one lot has an existing house and the other lots are currently vacant. Each lot is a frontage lot and meets the Essex zoning regulations for frontage. There will be no proposed infrastructure in connection with this application, i.e., roads, common driveways, etc. Mr. Wren noted that there are numerous trees on and along the driveway of the existing house.

Mr. Wren stated that per the original application, it was indicated that the only proposed work was involving utility and driveway location on the windmill lot. Since that application was filed, Mr. Wren was advised by Town staff to submit a separate application to the IWWC for any work that might eventually be done on the windmill lots. The revised plan has a notation next to the windmill noting that there is no work proposed on that lot at this time.

Mr. Wren stated that there was a discussion of a conservation easement with the original plan. This plan before the Commission is revision #3 and dated to 2/14/2012 and represents 150 feet landward. The easement will run with the land and be a part of each deed on each lot. Mr. Wren stated that tidal wetlands will not be affected and as such there is no need to go before the CT DEEP. As a part of the subdivision approval process, the proposal must show that each lot is viable to include house, driveway and septic system. Mr. Wren stated that as part of the original subdivision exploration in December, a minimum of three test pits were dug on each lot. A total of 20 test pits were dug and CME Associates who are retained in the capacity of the Essex Town Sanitarian, was present and inspected the testing. Percolation tests were then conducted on each lot. The information gleaned from that testing provided the necessary information to evaluate a potential septic system design. Five-bedroom homes with a 3,000 s/f area on the first floor were the basis for testing on each of the six lots. Mr. Wren stated that the sanitarian was pleased in that the soil is excellent on all of the lots in terms of drainage and is comprised of sandy loam. Mr. Wren stated that in the area that soil testing was conducted, the requirement is for two to three test holes to be dug. Lot #2 where the narrowest portion of the lot extends is the area in which the test holes were done. Forty-eight inch concrete galleries were chosen. On the entire 11 acre property the soil testing was consistent. Mr. Wren commented on the Geomatrix GST which is a simple system that treats effluent better than galleries. It lets the water pool up inside and slowly percolates into the ground. The Geomatrix is an aluminum form with fins. Once that is set and compacted, the aluminum form is pulled. Sand mats are in place for the even flow of water. The Geomatrix is manufactured by a local company in Old Saybrook and it is a very reliable system. Mr. Wren noted that this system is within the public health code and accepted in the State of CT.

This application proposes a 150 foot conservation easement which preserves the 100-foot CT River setback, plus 50 feet. Each lot is comprised of 2 plus acres of land. Mr. Wren referenced a map noting that the blue designated area represents a 75-foot viewing for each lot and nothing above ground may be constructed. Mr. Wren indicated that when driving up Riverview Street you can just barely see the CT River. However, once you get past the existing pool house, one is allowed a good view of the river. The applicant wanted to preserve that and he felt that if someone bought all this property as a whole, there was a strong likelihood that the view to the river would be blocked. Dividing the property into two lots automatically separates the homes on the lot.

At this time there is no construction proposed, the delineation of the property lines are still in the planning stage. There is a water service extending from Riverview Street to Foxboro extension which proceeds all the way to the windmill. That line will be abandoned and replaced with a new service for lot #2. If the subdivision were to be approved as is, the waterline will need to be relocated for the windmill house.

Each parcel will have access to the cove. Mr. Lomme stated that during low tide that area is comprised of mostly flats with very little water at the end. If docks were permitted with the conservation easement,

the owner would have to come before the IWWC for a Permit. Mr. Lomme note that it is premature to expound on the conditions of the easement as those restrictions have not yet been put in place.

Mr. Wren noted that there are currently no existing docks on the property. Each individual property would have to get permitting approval from DEEP in order to construct a dock. Aquatic vegetation is usually associated with shallow water. If that is the case, it will be very difficult to obtain approval for a dock. Mr. Wren noted that at the January IWWC meeting a letter was submitted from the DEEP stating that there may be endangered species within the tidal wetlands abutting the lots. Mr. Wren read into the record a letter from the DEEP which addresses the proposed subdivision and more particularly stated that activities will not impact federal or state endangered species that occur within the vicinity of the property.

Mr. Corson commented on the view easement and asked Mr. Budrow if there is any limitation on the plantings.

Mr. Budrow stated that there are limitations on trees over a certain height.

Mr. Wren stated that they wish to maintain a view from the corridor from Foxboro Point through the area looking toward the river. A total of 27% of the property will be preserved which is about 5.2 acres.

Mr. Lapman asked if the Commissioners had any further questions.

Mr. Lapman opened the meeting to public comment.

Motion made by Nancy Arnold to grant a Permit for **Application 12-1 for property located at 1 Foxboro Road, Essex, CT, Assessor's Map 16 Lot 12. The property is owned by Ellen Croft Craft and Roberta Croft Ellis. The applicant is Frank J. Sciamè, Jr.** Based on the documents presented, on the site inspection and on the testimony given at this meeting, the Commission finds that the proposed activity is a regulated activity not involving any significant or major effect upon the inland wetlands or watercourse which occur on the property as defined in Section 2.2 (j), and that no reasonable or prudent alternative exists to the proposed plans. The Commission members feel that the proposed activities are well suited to the area.

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:

1. It has been represented to the IWWC that there are no inland wetlands property aspects to this application and no inland wetlands will be impacted by this application.
2. 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 15th and October 15th of the year of initiation.
3. Should the applicant determine that the permitted activity will not be completed between March 14th and October 15th 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.
4. 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.
5. 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

Motion seconded by Steve Knauth and passed unanimously 7/0/0.

Mr. Lapman closed the Public Hearing and opened the regularly scheduled meeting at 8:10 p.m.

New Business

- **Consideration of Application 12-2 Sunset Pond, Essex, Assessor's Map 32 Lot 73, Zoning District LI. The owner of record is the Paul Foundation and the applicant is the Town of Essex Park and Recreation Department.**

This is an application to seek an approval for the revitalization of Sunset Pond on West Avenue. The regulated activity is for the drag line dredging of Sunset Pond, the removal of dead vegetation around the pond, to construct a berm and to re-seed the area with grass. In July 2011 an IW Permit was granted for partial dredging around the piers based on a conceptual plan presented by the Park and Rec Department.

Jim Godsman presented. Mr. Godsman indicated that he first came before the IWWC on July 12, 2012 to discuss Sunset Pond which has become a pet project since he moved to Essex. Mr. Godsman stated he came before the IWWC one year ago and was granted a Permit to work on a small portion of the pond. Mr. Godsman noted that he has obtained approval from The Paul Foundation, owners of the pond and also from Essex Park and Recreation and he continues to work with them in discussing options for clean up and beautification of the pond. Mr. Godsman stated that he has completed Phase 1 and he is here this evening to request permission to clean up an edge of the pond which excludes the wooded area at the end. The plan with Phase 2 is to turn Sunset Pond and the area surrounding it into a park with a trestled walkway at the far end.

Mr. Godsman informed the Commissioners that they have received two packets of information listing the background of Sunset Pond. The second packet is specific to this evening's discussion. This information addresses the efforts made that will, over time, upgrade the pond. The Garden Club worked on the beautification of Sunset Pond and the surrounding area in the past. Mr. Godsman noted that he spoke with David Hyde and with Ed Marlow and he also met with CT Ponds and Rick Bobek who is a key in cleaning up the ponds in the State of CT. Mr. Godsman also met on site with Paul Capitosto from the DEEP.

Mr. Godsman stated that the work is proposed to occur in two phases: the first phase encompasses the north side which parallels West Avenue. The second phase encompasses the southwest corner where all the brambles were recently cut back and cleaned up. Mr. Godsman referenced the north side of the pond and referenced a vegetation drawing done by Richard Snarski. A berm will be built utilizing the existing soil, parallel to West Avenue. The berm is located just above the water's edge. The mats are to hold the machine up and keep them stable. The work will be done in August when the climate is the driest. In effect the pond will be enlarged because some of the mulch which is comprised of eroded materials will be removed. Mr. Godsman noted that he is not pulling the actual edge of the pond back; he will clean just the bogs and leaves. Mr. Godsman stated that he spoke with First Selectman Needleman and it was indicated that there are no funds in the budget to subsidize this project. A private group of people are funding this project. Mr. Godsman stated that the wet soils will dry quickly, as it is exposed to the sun.

Mr. Corson stated that a contingency plan would be to add sand to the mix which will assist in drying it.

Mr. Szufnarowski commented that the organic materials in the pond possess no structural strength and that this soil might have no value in the prevention of erosion. Mr. Szufnarowski questioned if Mr. Godsman was certain that the eroded materials had washed into the pond. The pond is four feet deep in the center and the deepest is 4.5 feet at the exit. Mr. Godsman noted that the Paul Foundation owns this property and leases it to the town.

Mr. Corson suggested the use of something that works just like rip rap which is a permanent turf reinforcement. This product will remain under the surface allowing grass to grow up through it. Mr. Corson noted that it looks much nicer than rip rap and it is permanent.

Mr. Godsmann stated that he will investigate this concept.

Motion made by Mr. Corson to conduct a site inspection for **Application 12-2 Sunset Pond, Essex, Assessor's Map 32 Lot 73, Zoning District LI. The owner of record is the Paul Foundation and the applicant is the Town of Essex Park and Recreation Department** on Saturday, February 18, 2012 at 9:00 a.m. Members will meet at the site where the dock is located.

Motion seconded by Nancy Arnold and passed unanimously 7/0/0.

- **Consideration of Application 12-3, property located at 141 Saybrook Road, Essex, Assessor's Map 71 Lot 22, Zoning District RU. The owner of Record is Michael C. Picard, Revocable trust, Richard M. D'Angelo, Trustee.**

This is an application to allow the construction of a freestanding wall to be located along the shoreline at 141 Saybrook Road. The wall is 15" in height and the wall is leeward of the high tide line and as such is not reviewed by the State of CT.

Jon Bennett presented. Mr. Bennett indicated that he submitted an application for a IW Permit based on the previous suggestion made by the Commission in an effort to resolve outstanding issues re jurisdiction and in hopes of coming to a resolution that is acceptable. Mr. Bennett submitted a map which shows the high tide line, the rip rap along the frontage and the location of the proposed wall. There are no inland wetlands involved on this property in this location of the proposal. Mr. Bennett noted that any wetlands involved are located around to the south and to the west. There is a stream that runs out to south cove. The wetlands were flagged on a previous map by Richard Snarski, soil scientist and the high tide line is flagged. Mr. Bennett asked Priscilla Bailey, botanist to prepare a report with respect to this application and the cease and desist. Her conclusions are that the wall creates no impacts of any kind. There are a series of pipes in the base of the wall to allow water to run through. Mr. Bennett stated that this is a 100-year flood zone but not a flood way as defined by FEMA or the towns regulations.

Mr. Szufnarowski clarified that Mr. Bennett is requesting that the Commission approve the wall as a decorative feature. The IWWC is not being asked to approve the pipe, which will ultimately be removed from the property.

Mr. Budrow stated that there is one feature on last site plan which measured the distance of a catch basin to a stake, and that distance was 90 feet. A catch basin was installed within 100 feet of the cove. That would have required excavation and would have been a regulated activity. Mr. Budrow suggested opening this application to include the catch basin and pipe.

Mr. Bennett stated that he would be amenable to the approval of the catch basin as a part of this application.

Mr. Corson indicated that while the pipe not part of this application, it is still an outstanding issue that needs to be resolved. Mr. Corson stated that he would like to ask that the IW Commission recommend that the town engineer look into this issue since it is likely that the town is one of the contributors to the water that runs down that pipe.

Michael Picard stated that he and Tom Metcalf, P.E. came before the IWWC previously and they also contacted Bob Doane, P.E. who visited the site and took the position that this drainage issue has been in place for along time and then closed the matter. Mr. Picard noted that despite his best efforts to include discussions with the Town, the Land Use Office and with the Town engineer, the situation has not been resolved and this has become a very costly matter for Mr. Picard. Mr. Picard stated that he has made monumental efforts to remediate this situation over past several months.

Mr. Lapman asked if the Commission had any further questions or comments.

Motion made by Fred Szufnarowski to approve an **IW Permit Application 12-3, property located at 141 Saybrook Road, Essex, Assessor's Map 71 Lot 22, Zoning District RU. The owner of Record is Michael C. Picard, Revocable trust, Richard M. D'Angelo, Trustee.**

This is an application to allow the construction of a freestanding wall to be located along the shoreline at 141 Saybrook Road. Based on the documents presented, 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 or major effect upon the inland wetlands or watercourse which occur on the property as defined in Section 2.2 (j), and that no reasonable or prudent alternative exists to the proposed plans. The Commission members feel that the proposed activities are well suited to the area.

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:

1. 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 15th and October 15th of the year of initiation.
2. Should the applicant determine that the permitted activity will not be completed between March 14th and October 15th 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.
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

Motion seconded by Charles Corson and passed unanimously 7/0/0.

Motion made by Chuck Corson to ask the town to have the town engineer to look into this matter.

Motion seconded by Nancy Arnold and passed unanimously 7/0/0.

Mr. Budrow will draft a formal letter to the Board of Selectmen outlining the issues surrounding the drainage pipe for the IW Chairman to approve and sign. The IWWC would like an analysis of the drainage from Mallard Point road all the way down to Cove Rest Pentway and a solution for the same.

Approval of Minutes

- **Regular Meeting, January 10, 2012**

- Approval of the January 10, 2012 meeting Minutes tabled.

- **Site Walk, January 14, 2012**

- Amendments to the January 14, 2012 Site Walk as noted in italics.

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Last line on page 4: "Mallard Point *Road*".

Motion made by Chuck Corson to approve the Minutes from the January 14, 2012 Site Walk Minutes as amended.

Motion seconded by Fred Szufnarowski and passed unanimously 7/0/0.

Correspondence and Invoices: No correspondence and no invoices.

Reports:

a. Wetlands agent

- Mr. Budrow reported on agent approvals on the last month:
- Administrative IW Application #12A-1 property owned by Keith and Frances Nolin, 80 Deep River Road, Centerbrook, CT for a 14' x 24' covered bridge structure over a seasonal stream crossing. Mr. Budrow stated that Mr. Nolin has started the bridge prior to obtaining a Permit application and it is 90% complete. The bridge involves a culvert with a crossing and Mr. Nolin constructed a bridge on top of that crossing. Mr. Budrow informed Mr. Nolin that he is required to complete an IWWC application for work being conducted in a regulated wetland area. Mr. Budrow noted that there appears to be no impact to the wetlands.

Nancy Arnold reminded Mr. Budrow that no further work is to be done during the non-activity months which are October 15 through March 15th. Ms. Arnold requested that Mr. Budrow place a begin and an end date on the Administrative Permits he approves.

- Administrative IW Application #12A-2 Robert and Linda Dwyer, 76 Ingham Hill Road. This is a proposal for removal of scrub brush and small cedar trees along the 20 foot setback line for building and for the construction of a 32' x 36' one-story storage barn. The storage barn is without running water or toilet facilities. The driveway will move to the right of the property and the wetlands are to the front of the property, 93 feet away. There will be no impact on the wetlands.
- **Consideration of Application 12-4, property located at Ingham Hill Road Essex, Assessor's Map 93 Lot 1, Zoning District RU. The owner of Record is River Sound development, LLC.** This property is situated at the end of Ingham Hill Road and proposes an open space subdivision. There is a 75-foot setback between the road and the property line. Mr. Budrow indicated that this application will come before the IWWC in the near future.
- Mr. Budrow reported on two enforcement actions: Michael Crivelli, property located at 54 Main Street, Ivoryton, Map 56 Lot 10-1. The owner clear cut this property in October 2011. Mr. Budrow met at the site and informed the property owner that he needs to obtain soil testing on

that property. At the next IWWC meeting Mr. Budrow will provide the results from that soil testing. The applicant stated that it is his plan to allow that area to completely grow in.

- Mr. Budrow commented on the property situated behind the Centerbrook Post Office. The property owner has not contacted Mr. Budrow.

Mr. Lapman stated that it has been four months since this matter came before the IWWC and now there is also a boat on the property. Mr. Lapman stated that something must be done to obtain resolution on this matter. Mr. Budrow will have a report at the March 2012 regularly scheduled meeting.

b. Chairperson: No report.

c. Planning Commission Representative Claire Tiernan reported that the Planning Commission site walk date for Foxboro subdivision is March 3, 2012. The time has yet to be determined. Ms. Tiernan reported on the Toby Hill subdivision. The proposal is situated primarily in Westbrook. The subdivision exits onto Pond Meadow Road. The site line is a concern. Essex has given approval.

d. Conservation Commission Representative: No report.

e. Zoning Commission Representative Larry Shipman. No report.

Motion made by Dan Lapman to adjourn.

Motion seconded by Claire Tiernan and passed unanimously 7/0/0.

The regularly scheduled meeting of the Essex IWWC adjourned at 8:50pm

Respectfully submitted,

Stella C. Beaudoin
Recording Secretary

The next regularly scheduled meeting of the Essex Inland Wetlands and Watercourses Commission will be conducted on March 13, 2012.