

**EAST LYME INLAND WETLANDS AGENCY  
REGULAR MEETING  
MINUTES  
Monday March 8, 2010**

**Members Present:**

Walter Procherena, Chairman  
Cheryl Lozanov, Secretary  
Candace Bodenhofer  
Ed Hafner  
Charles Reluga  
Joe Mingo

FILED IN EAST LYME  
*Mar 17, 2010 AT 3:30 PM*

*R. Blais atc*  
EAST LYME TOWN CLERK

**Also Present:**

Gary Goeschel, Director of Planning / Wetlands Officer  
Keith Hall, Alternate Member  
Phyllis Berger, Alternate Member, Seated

**Absent:**

Norman Bender

**CALL TO ORDER**

Mr. Procherena called the Regular Meeting to order at 8:16 PM.

**PLEDGE OF ALLEGIANCE**

The Pledge was observed.

**I. ADDITIONS TO THE AGENDA**

**MOTION (1)**

Mr. Mingo moved to add 16 Darrow's Ridge to the Agenda as Item A under New Business.

Seconded by Mrs. Bodenhofer.

Motion carried 6-0-0.

**MOTION (2)**

Mr. Hafner moved to add the approval of the Regular Meeting Minutes of January 11, 2010 under Item 3 as Item C.

Seconded by Mr. Reluga.

Motion carried 6-0-0.

Ms. Lozanov brought up discussion about a presentation for bat houses. It was decided this was a topic for the Conservation of Natural Resources.

**II. PUBLIC DELEGATIONS**

Mr. Dan Wade of 392 Boston Post Road, East Lyme wanted to comment to Ms. Lozanov that he had lumber that he would like to donate to someone that would use it to make bat houses or bird houses.

**III. ACCEPTANCE OF MINUTES**

**A. February 8, 2010 – Public Hearing Minutes**

Mr. Procherena called for comments and or corrections to the Minutes. Ms. Lozanov requested that her name be changed to Ms. instead of Mrs.

**MOTION (4)**

Ms. Lozanov moved to approve the Public Hearing Minutes of February 8, 2010 as amended.

Seconded by Mr. Hafner.

Motion carried 6-0-0.

**B. February 8, 2010 – Regular Meeting minutes**

Mr. Procherena called for comments and or corrections to the Minutes. Ms. Lozanov requested that the following changes be made

1. Her name be changed to Ms. instead of Mrs.
2. The spelling of CACIWC - Connecticut Association of Conservation and Inland Wetlands Commissions.
3. Under B. Fines for Wetland Violations Ordinance – Old Business under 5b. It was stated that Mr. Procherena suggested having the ordinance removed, and with that comment Ms. Lozanov recalled making a counter comment that she did not approve of that action, and that it was better to have it on there even if there wasn't an enforcement officer at the time, it was still good to have the ability to levy the fines. She asked that this comment be added.

**MOTION (5)**

Ms. Lozanov moved to approve the Regular Meeting Minutes of February 8, 2010 as amended.

Seconded by Mr. Hafner.

Motion carried 6-0-0.

**C. January 11, 2010 – Regular Meeting Minutes**

Mr. Procherena called for comments and or corrections to the Minutes. Ms. Lozanov requested that her name be changed to Ms. instead of Mrs.

**MOTION (3)**

Ms. Lozanov moved to approve the Regular Meeting Minutes of January 11, 2010 as amended.

Seconded by Mr. Mingo.

Motion carried 6-0-0.

**IV. PENDING APPLICATIONS**

**A. 63 Scott Road, Tax Assessor's Map # 29.0, Lot # 14 – Property of Webster & Lisa Scott applicant/owner; Application for the filling in of approximately 5,594± square feet of a wetland and watercourse. (Application Received 12-07-09). Application postponed. Public Hearing extended.**

**\*\* B. 220 Old Black Point Road, Tax Assessor's Map # 2.1, Lot# 16-2 Property of Paul Lussier applicant/owner; Application for the construction of a new single family home with pool. (Application Received 02-28-10).**

Mr. Mingo asked that this item be moved to the next meeting for approval he wanted to research a few issues.

Mr. Hafner pointed out that this was a public hearing and they could not obtain any more information from outside the public hearing since it had been closed.

**MOTION (6)**

Ms. Lozanov moved to open the discussion for the approval of the application of 220 Old Black Point Road.

Seconded by Mr. Hafner.

Motion carried 6-0-0.

Ms. Lozanov wanted to discuss the conditions for the applications she had listed.

Mr. Hafner wanted to discuss whether or not there was significant impact to the wetlands.

He said he did not see significant impact, he liked the 25 foot buffer and felt that the application should be granted. His only concern was the pool water, there was discussion regarding the non-backwashing filter. Ms. Lozanov requested a section view of the pool.

Mrs. Bodenhofer felt that with the conditions that have been discussed, the 25 foot buffer and the fact that they have the right to build, the application should be approved.

Mr. Mingo said that since they did not have expert witnesses to testify on behalf of the Agency, it would not hold up in court and felt that they should approve. He did have a problem with an incomplete application. Mr. Reluga was not comfortable but felt that the applicant had made a good faith effort to preserve the wetlands. Mrs. Berger commented on the driveway remaining stone.

**MOTION (7)**

Mrs. Bodenhofer moved to accept the application for 220 Old Black Point Road as a complete application.

Seconded by Mr. Hafner.

Motion carried 5-1-0.

Mr. Mingo opposed.

Mr. Procherena called for discussion regarding the conditions.

**MOTION (8)**

Mrs. Bodenhofer moved to approve the application for 220 Old Black Point Road with the following conditions:

1. Notify conservation officer at least 2 days prior to construction to inspect erosion controls.
2. Notify conservation officer at completion of permit for final inspection and sign off.
3. Additional work beyond this permit in the wetlands or watercourse or its 100' regulated area will require approval from the conservation commission or its certified agent.
4. Any changes to the plan listed on this permit require notification to the Wetlands Enforcement Officer and may require commission approval – a new plan will be given to agent before work begins.
5. The 25-foot wetland buffer plantings shall be monitored for a period of five (5) years and exhibit an eight-percent (80%) survival rate.
6. A low-maintenance lawn such as fescue, which requires minimal application of fertilizer and pesticides, shall be planted.
7. The proposed plan shall be revised to include a material stockpile area and the name and contact information of the individual responsible for erosion and sedimentation controls.
8. A profile or section view of the proposed pool, both pre and post construction shall be provided.

9. The proposed pool filter shall be of the non-backwash filter type variety.
10. The proposed patio around the proposed pool shall be constructed of pervious or semi-pervious material to reduce storm water runoff and enhance storm water infiltration.
11. The proposed 25-foot wetlands buffer enhancement shall be extended beyond the stone walls as shown on the plan to the easterly rear property boundary as near as practicable.
12. Plantings shall be installed utilizing best management practices.
13. A note on the plans should be added indicating the name of the individual responsible for monitoring and repair of erosion and sedimentation controls.
14. All erosion and sedimentation controls should be installed prior to any construction, clearing or grading on the site.
15. Conservation tags shall be posted. As such, they are provided by the Wetlands Enforcement officer and installed by permit owner.

Seconded by Mr. Reluga.  
Motion carried 6-0-0.

**\*\* C. 23 Roxbury Road, Tax Assessor's Map # 16.1, Lot #56 Property of Michelle Doucette, Owner, Paul Lussier, Applicant; Application for the demolition of existing structure and the construction of a new single family home. (Application Received 02-08-10).**

Mr. Goeschel said that the applicant was present and there had been a site walk on this property. His comments upon review of the plan were regarding the temporary stock pile area and access to that area is blocked completely with the silt fence. In addition extending the proposed silt fence, and to ensure that there is an appropriate outlet protection at the footing drain.

Mr. Lussier explained that there is an existing house in the same location as the proposed new house. They will be replacing the septic tank unless otherwise instructed by the town to do more than that. It is in the plan to put a silt fence and hay bails. Ms. Lozanov asked if there would be a basement in the new house. Mr. Lussier explained that there would be a basement and very little change in elevation of the house. Mr. Reluga asked how long it would take to demolish the house. Mr. Lussier replied no more than a week. The plan was to begin in mid-April. Mrs. Bodenhofer wanted to clarify the distance closest to the wetlands as being 60 feet. Mr. Mingo asked if there was asbestos present in the house. Mr. Lussier said this was being investigated. Ms. Lozanov asked how much fill was going to be needed, were there any trees going to be removed and what were the stakes sticking out of the ground to the left of the driveway. Mr. Lussier said there would be some trees taken down behind the house to build the garage. He was not clear on the stakes and their purpose, and he was not planning on bringing in any fill only moving existing soil. Ms. Lozanov wanted to know the effect of the run-off into the pond. Mr. Lussier did not anticipate any change in the existing run-off. Ms. Lozanov asked who the soil scientist was, Mr. Lussier replied there was not one needed. Mr. Mingo wanted to clarify under what regulation was permission from the Wetland Agency required. Mr. Goeschel replied because the property was within 100 feet of a watercourse. Mr. Mingo said that all they were concerned with then was any impact to the watercourse. Mr. Mingo asked if the state owned the lake bottom, and that it was not owned by the town. Mr. Goeschel said this was correct. Mr. Reluga did not think the plans would impact the pond in any way and was there a need for a public hearing. Mr. Procherena said no, the

decision would be made this evening. Mr. Goeschel wanted to comment on the paved driveway and said that in that area might be an appropriate place for a rain garden to catch the run-off before it enters the pond. There was discussion about rain-gardens and their function. Mr. Lussier said the home-owner was going to install the lawn and wasn't sure if he could insist on the installation of a rain garden. Mr. Procherena wanted clarification on the septic system. Mr. Lussier explained that they intended to only replace the tank. Mr. Procherena asked the procedure for taking down the old house. Mr. Lussier explained this would be done with an excavator and taken away by dumpster. Mrs. Berger asked what would be in the temporary stock pile area. Mr. Lussier said any rocks or boulders that were found when removing the existing foundation. Ms. Lozanov wanted to clarify the plans for the new deck. Mr. Procherena called for a motion for completeness.

#### **MOTION (9)**

Mrs. Bodenhofer moved to accept the application for 23 Roxbury Road as a complete application.

Seconded by Mr. Reluga.

Mr. Procherena called for discussion.

Ms. Lozanov said she would like to see the stairs for the new deck added to the plans. Motion carried 6-0-0.

Mr. Procherena called for discussion.

Ms. Lozanov wanted to encourage education of the home-owner of the benefit of a rain garden.

There was discussion about rain gardens and excess fertilization.

#### **MOTION (10)**

Mr. Reluga moved to approve the application for 23 Roxbury Road with the following conditions:

1. Notify conservation officer at least 2 days prior to construction to inspect erosion controls.
2. Notify conservation officer at completion of permit for final inspection and sign off.
3. Additional work beyond this permit in the wetlands or watercourse or its 100' regulated area will require approval from the conservation commission or its certified agent.
4. Any changes to the plan listed on this permit require notification to the Wetlands Enforcement Officer and may require commission approval – a new plan will be given to agent before work begins.
5. Extend silt fencing west and up slope tying it in with the silt fencing being placed around the proposed stockpile area.
6. A low maintenance lawn such as fescue, which requires minimal application of fertilizers and pesticides, shall be planted.

There was discussion about rain-gardens and whether or not it could be added as a condition.

Seconded by Mr. Hafner.

Motion carried 6-0-0.

**MOTION (11)**

Mr. Reluga moved to add a rain garden to the conditions of the application for 23 Roxbury Road, Niantic.

Seconded by Mr. Hafner.

Mrs. Bodenhofer opposed.

Mr. Mingo opposed.

Ms. Lozanov opposed.

Motion not carried 3-3-0.

**V. OLD BUSINESS**

There was none.

**VI. NEW BUSINESS**

**A. 16 Darrow's Ridge**

Mr. Strafacci of 16 Darrow's Ridge Road, said he was not the property owner, his wife Carol was, however he would speak on their behalf. Mr. Strafacci said in February he received the letter from Mr. Goeschel and they planned to meet in the spring. He explained that a landscaper he had hired was clearing trees and went into the 100 foot buffer area. He had discussed with Mr. Goeschel what needed to be done to rectify the situation. He said he was very surprised when he had received a formal cease and desist notice. He said the notice references things that are not correct, such as installing concrete pipes and adding fill. Mr. Strafacci had pictures of the area in question that he distributed to the Agency. He said he was interested in the idea of a rain garden as a solution for the area in question. He wanted to be clear that there was no fill added and no drains or concrete pipes.

Mr. Goeschel recommended that the applicant apply for an application for restoration to be discussed at the next regularly scheduled meeting. Mr. Procherena asked if the property looked any different than the surrounding properties. Mr. Goeschel replied yes, that the violation was brought to his attention by the developer. Mr. Goeschel distributed pictures to the Agency that he had taken from the road.

Mr. Procherena asked Mr. Strafacci for a plan of restoration and to submit an application for review with Mr. Goeschel. Mr. Goeschel wanted to advise the Agency of section 14.4 of the regulations, subsection a. "The agency shall consider the facts presented at the hearing, and within ten (10) days of the completion of the hearing notify the person by certified mail that the original order remains in effect, that a revised order is in effect, or that the order has been withdrawn."

Mr. Procherena asked for a motion to hold the cease and desist order in affect until the applicant appears at the next meeting.

**MOTION (12)**

Ms. Lozanov moved to hold the cease and desist order for 16 Darrow's Ridge, in place until applicant presents plans for correction at the next scheduled meeting.

Seconded by Mrs. Bodenhofer.

Motion carried 6-0-0.

Mr. Hafner wanted to comment that it was nice to see the Strafacci's cooperating and willing to restore the area.

There was more discussion about rain-gardens.

**VII. CHAIRMAN'S REPORT**

Mr. Procherena said at the last meeting he wanted to appoint a committee to investigate the procedure of other town's on the collection of fines. He had since met with the First Selectman and Mr. Goeschel regarding this matter. The outcome was that Mr. Goeschel will issue the citations and First Selectman Formica will appoint someone to hear the appeal. Mr. Procherena explained that the way the ordinance reads is that Mr. Goeschel will prepare a notice of violation and present it to the Agency who will then decide what if any fine will be applied. Mr. Procherena had question regarding the amount of \$15.00 being the fine for activity being conducted without a permit. There was discussion as to this amount and the ordinance from which it is written. Ms. Lozanov believed the \$15.00 was a per day fine for every day that the applicant did not respond. There was further discussion.

### **VIII. WETLANDS ENFORCEMENT OFFICER REPORT**

#### **A. Pending Enforcement Actions**

##### **161 West Main Street, Ballistrini's Notice of Violation**

Mr. Goeschel said that he spoke with David Coonrod, Land Surveyor who staked the right-of way. He said the majority of the clearing has occurred in the state right-of way. He said he is not too concerned with the area that is on their property due to the fact that they did not remove any stumps or vegetation. Ms. Lozanov asked if they had removed trees. He said no, only in the state right-of way.

### **IX. EX-OFFICIO REPORT**

There was no report.

### **ADJOURNMENT**

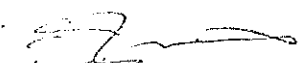
#### **MOTION (13)**

Mr. Mingo moved to adjourn the Regular Meeting of the East Lyme Inland Wetlands Agency at 9:55 PM.

Seconded by Mrs. Berger.

Motion carried 6-0-0.

Respectfully Submitted,



Zoë Zrakas, Recording Secretary