

**A CORNWALL INLAND WETLANDS AND WATERCOURSES AGENCY  
MINUTES OF THE AUGUST 7, 2018 REGULAR MEETING - CORNWALL TOWN OFFICES**

**Present: Regular members, D. Stevenson Hedden, Adam Fischer, Roger Kane, Andrew MacDavid, William Hurlburt, alternate members Peter Demy and Deborah Bennett and IWWO Karen Griswold Nelson.**

Presiding chairman D. Stevenson Hedden called the meeting to order at 7:00PM in the Cornwall Town offices with a quorum established.

**APPROVAL OF MINUTES: July 3, regular meeting**

**Motion** made by Mr. Kane, seconded by Mrs. Bennett to approve the July 3, 2018 minutes as presented; unanimously approved.

**PENDING APPLICATIONS.**

**Modifications to App#605 - Eversource Energy owner/ Housatonic Valley Association applicant for regulated non-significant activities within 150 feet of the Housatonic River for the “River Bend” project in West Cornwall – 36 Lower River Road. Approved August 2016.**

New information made part of the record:

Mapping entitled “Housatonic River Access, at the Bend, West Cornwall, sheets “Stormwater Run Off Schematic”, “Section Views”, “Proposed Parking, River Access, and Stormwater Water Management” for the Housatonic Valley Association” drawn by Earth Tones, dated July 22, 2018 Brochure containing Specifications and information on “Flexamat (Permanent Erosion Control) “Amended Construction Sequence” dated August 7, 2018, prepared by Earth Tones,

Michael Jastremski, Housatonic Valley Association (HVA) Watershed Conservation Director was in attendance to represent the revised site modification to the previously approved application.

Griswold Nelson advised the Commission that the Planning & Zoning Commission, at their July meeting, had addressed the Wetlands Agency’s concerns regarding the grading and design of the ramp, Noting that she had advised the Cornwall Planning & Zoning Commission that the Housatonic River Commission was not in favor of paving either, Griswold Nelson stated that the P & Z Commission, after general discussion, had agreed that an acceptable intermediate plan for the boat ramp area that did not require paving, but required additional stability to the proposed gravel path was needed. It was noted that P&Z had formally approved the conceptual plan at the July meeting for final approval by the Inland Wetlands agency.

Mr. Jastremski addressed the modified design plans prepared and supporting information supplied and outlined the modified features of the design. With agreement that the plans as modified addressed the concerns of the Wetlands Agency

**Motion** made by Mr. Hurlburt, seconded by Mrs. Bennett to approve **Modifications to App#605 - Eversource Energy owner/ Housatonic Valley Association applicant for regulated non-significant activities within 150 feet of the Housatonic River for the “River Bend” project in West Cornwall – 36 Lower River Road** as per the plans and supporting information made part of the record with following conditions” as per the modified plans submitted.

The name and contact information of the site contractor (Kyle Turoczi/Earth Tones, Woodbury, CT) was to be on file in the Land Use office; motion unanimously approved.

**03-PDR-18/App 620 – Cornwall Water Company applicant/owner –Regulated and Non-regulated activities within regulated areas to rebuild a spring/drinking water source for the state of Connecticut (Section 4.1.Permitted Uses as of Right and Non Regulated Uses – Subsection e. relating to water companies)– 348 Furnace Brook Road.**

Based on the Commission’s jurisdictional finding at the July meeting that items 9- 11 (install gunnite to spring floor, install crush stone to spring floor, and return spring to operation) were as of right according to Section 4. Subsection e relating to water companies and that the balance of the construction activities were regulated and could not acted on until the August meeting.

**Motion** made by Kane, seconded by Mr. Hurlburt, to approve **App#620** for regulated non-significant activities, and to confirm that activities included in **03PDR-18** for the actual repair of the spring was as of right according to Section 4.e; unanimously approved.

**App#619 – A Christine Gray applicant/Benjamin Gray owner – Activities within regulated areas for a 3 lot subdivision – 14 Bolton Hill Road.**

Mapping entitled “Record Subdivision Map and Site Development Plan – Property of Benjamin Gray – 14 Bolton Hill Rd, Cornwall CT dated 5/23/17 revised 6/26/18 made part of the record.

Griswold Nelson advised the Agency that the map submitted as part of the application had not received approval from Torrington Area Health and therefore should be considered a draft.

The Agency reviewed the mapping supplied with observations from Commission members of their historical knowledge of wetlands on the site (cattails in the lower corner). Griswold Nelson confirmed that her initial review of the application, based on mapping available on NRCS’s Websoil Survey, supported their historic knowledge of the site. It was further stated based on her findings, the applicant had hired a professional soil scientist (George Maila) to address her concerns and that a report (dated March 3, 2018 addressed to Ben Gray) and made part of the application, indicated his findings that no wetlands or watercourses were currently present on the subject property.

The Agency viewed the draft mapping prepared with agreement that all of the proposed site activities (driveway and house site) were in upland areas and that any activities within those areas would not result in erosion downhill with appropriate site development controls in place. It was suggested that should the plans change with any new activities within the area in question (lower corner), the application would be referred back to the Commission for consideration of the Agency’s right of third party review.

**Motion** made by Mr. Fischer, seconded by Mr. Hurlburt that the Agency, after review of the draft map as provided, has determined that they have currently have no jurisdiction and that such finding be made of the P&Z record; unanimously approved.

**09-PDR-15- Town of Cornwall applicant/owners Town of Cornwall/Cornwall Conservation Trust – improvements within the Town right of way to address drainage issues with impact on Cornwall Conservation Trust land – Ballyhack Road.**

Information referenced and made part of the record:

Mapping entitled “Center Line Road Profile” Road Reconstruction, Ballyhack Road, dated October 10, 1986 drawing 1 of 3, prepared by Pat Hackett with hand drawn locations of 3 culvert pipes recently installed – locations determined by highway foreman James Vanecky.

Mapping entitled “Center Line Road Profile” Road Reconstruction- Ballyhack Road, drawing 1 of 3, “Center Line road profile” drawing 1 of 2, sheet 2 of 3 and “Soil and Erosion Plan- Road Reconstruction Ballyhack Road, sheet 3 of 3 – Road construction” all dated October 10, 1986, prepared by Pat Hackett, PE.

Griswold Nelson addressed the mapping showing the installation of culverts on Ballyhack Road by the Cornwall highway department. Noting extensive research of the improvements to and reconstruction of the town road, including review of Board of Selectman's minutes, Griswold Nelson addressed the three maps referenced on file in the Town and the Land Use office and approved by the Town of Cornwall (Board of Selectmen) in 1986. Griswold stated that sheet, "Soil and Erosion Plan, Road Reconstruction" under Project description notes read "Two thousand, one hundred + or - feet of road reconstruction is proposed for the north end of Ballyhack Road. The driving surface consists of 16 feet of gravel with drainage crossovers of a maximum spacing of 100 feet." It was stated that no other information was on file that outlined any other road improvements. Griswold Nelson addressed recent conversations with the engineer of record, Pat Hackett, and his findings that the original road as designed was meant for access for very limited traffic and that the design was not appropriate or meant to be used on a town road with increased traffic due to additional residential development. Noting that the road, over the years, had required costly maintenance and repairs and impact to Conservation Trust lands and plans to address better address maintenance and improved water management with culverts and modifications to the road, including paving, were being proposed. Questions and concerns were raised regarding the need for new engineered plans and/or design review of the kind, size and placement of the storm water management structures. Consideration of curbing, berming along the road edges and plans to better handle water on the paved surface were discussed. Deeming the proposed and completed modifications a big improvement (Kane)

**Motion** made by Mr. Kane, seconded by Mr. MacDavid to approve **09-PDR-15**. Motion approved by Mr.'s Kane and MacDavid, denied by Mr.'s Hedden, Hurlburt and Fischer. Motion denied. It was noted that the majority vote to deny the application was based on a finding that the plans did not adequately address continued erosion issues on the road in the future.

#### **NEW APPLICATIONS AND OR MODIFICATIONS/PETITIONS FOR DECLARATORY RULINGS. UPLAND REVIEWS AND APPROVAL BY AUTHORIZED AGENT.**

##### **App#621 Steve Ziminy applicant/owner – Activities within regulated areas for the construction of access to agricultural land/and or single family residential site – 94 College Street.**

Information made part of the record

Application with paper copies and electronic media for proposed reconstruction of an existing access road with areas of wetlands and watercourses delineated.

Griswold Nelson addressed the application on behalf of the property owner/applicant.

Griswold Nelson addressed conversations with the property owner(s) and their intent to reconstruct an existing farm road/access on the site with a design that would comply with zoning standards for access to a single family residence. Griswold Nelson stated that the site was being field flagged for Agency members to walk.

**Motion** made by Mr. Fischer, seconded by Mr. MacDavid to accept **App#621** and to table discussion until the September meeting; unanimously approved.

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##### **06-PRD-18 - Matthew Voigt applicant – New England Aquatic Services/Joshua Smith owner – Pond dredging – 271 Cornwall Hollow Road.**

Information made part of the record.

July 18<sup>th</sup> email from New England Aquatic Services with attachment; Petition for a Declaratory Ruling, a consent form for Matthew Voigt to represent the property owner, and a written narrative/plan defining the process for a pond dredging project at 271 West Cornwall Road. (Email was forwarded to Commission members in July)

With note made that the process proposed was similar to one previously undertaken in Cornwall by the same contractor with favorable field review of the process during the previous Petition **Motion** made by Mr. Kane, seconded by Mr. Hurlburt, to determine that **06-PDR-18** constitutes as use as of right for maintenance of residential property; unanimously approved.

**App#622- Town of Cornwall/property owner - applicant(s) Phillippe Selendy and John Stearns - work within the town right of way for removal of invasives/trees and phragmites - Town Street.**

Information made part of the record.

App#622 submitted by John Stearns from Bartlett Tree Service for work proposed on behalf of Phillippe Selendy (Town Street property owner) on Town owned property

Griswold Nelson stated that the project involved work within the Town of Cornwall right of way and that she had submitted the application to the First Selectman for review and approval. (As noted on the application)

With note made that the application had been submitted for regulated activities but that is was within the jurisdiction of the Agency to determine that the proposed activities were as of right: **Motion** made by Mr. Fischer, seconded by Mr. Kane, to determine that the activities as defined in **App#622** (for regulated activities) submitted by John Stearns were as of right for maintenance of town and residential property; unanimously approved.

Request to amend the agenda to add

**App#625 - John O' Donnell owner/Mathias Kiefer applicant- Proposed Resubdivision - Cogswell Road - Report for proposed subdivision.**

**Motion** made by Mr. Fischer, seconded by Mr. MacDavid, to amend the agenda to add **App#625**: unanimously approved.

Roger Kane recused himself from acting on **Applications 623 and 624** to address the applications on behalf of the Town of Cornwall.

**App#623- Town of Cornwall property owner/applicant - activities within regulated areas for the replacement of the gravel pit Road Bridge over Mill Brook - off Sharon Goshen Turnpike Road.**

Information made part of the application;

Mapping entitled "Replacement of Gravel Pit Road Bridge over Mill Brook" prepared by Close, Jensen and Miller, dated July 16, 2018.

Mr. Kane stated that Dayton Construction would be undertaking the proposed work, and that the work was expected to be a 25 day start-to-finish project in the fall.

**App#624 - Town of Cornwall property owner/applicant - activities within regulated areas for the replacement of the Smith Place Bridge over Mill Brook - Smith Place off Sharon Goshen Turnpike Road.**

Information made part of the record.

Mapping entitled "Replacement of Smith Place Bridge over Mill Brook, prepared by Close, Jensen and Miller, dated July 16, 2018.

Mr. Kane stated that Dayton Construction would be undertaking the proposed work for the replacement of the deck only on the bridge and the methods to divert traffic in the interim **Motion** made by Mr. Fischer, seconded by Mr. Hurlburt to accept **App#623 and 624** for regulated non-significant activities and to table discussion until the September meeting; unanimously approved.

**07-PDR-18 – Karen Mullin applicant/owner – Removal and clearing of vegetation around a failed pond for access and assessment of activities needed for pond repair – 6 Day Road.**

Griswold Nelson represented the application on behalf of the property owner (out of town since December and returning to Cornwall in mid-August) stating that she had initiated the application process to help the property owner gain access to the property to better access the situation for a new and complete application for the repair of the pond and failed dam inlet/outlet structures. Griswold Nelson stated that she had been in contact with the new property owner in early winter and visited the site in January to try to gain access. Noting that vegetation then and now, after a complete growing season, had resulted in the site being totally inaccessible, Griswold Nelson stated her finding that mechanical equipment would be needed to clear the invasives, trees and vegetation on the site. Commission members addressed their knowledge of the many issues with the previous site development plans and agreed that mechanical equipment was needed in around the wetlands soils to clear the site and stabilize the site for a proper assessment of existing conditions and the submission and approval of engineered plan by a qualified engineer for the repairs needed to re-establish the pond.

**Motion** made by Mr. Hurlburt, seconded by Mr. Kane, to determine that **07-PDR-18** constitutes a use as of right for maintenance of residential property with the condition that Griswold Nelson was to work with the selected contractor to ensure that the work was done in a fashion that was most protective of the wetlands and watercourse on the site; unanimously approved.

**App#625 – John O’ Donnell owner/Mathias Kiefer applicant- Proposed Resubdivision – Cogswell Road - Report for proposed subdivision.**

Information made part of the record.

Mapping entitled “Sheets 1 of 2 – Proposed Resubdivision Map prepared for John O’Donnell Cogswell Road, prepared by Mathias Kiefer” dated June 26, 2018 was made part of the record. The Agency reviewed the mapping supplied with observations from Commission members of their historical knowledge of the site development over the years and the mapping being consistent with their knowledge of the site with the wetlands as flagged. With agreement that the mapping demonstrated that the buildable areas did not contain wetlands or watercourses

**Motion** made by Mr. Kane, seconded by Mr. Fischer, that the Agency, after review of the map as provided, has determined that they have currently have no jurisdiction and that such finding be made of the P&Z record; unanimously approved.

**INLAND WETLANDS OFFICER REPORT.**

**CORRESPONDENCE AND COMMUNICATIONS RECEIVED.**

**OTHER BUSINESS PROPER TO COME BEFORE THE COMMISSION.**

**Amendments to the Inland wetlands regulations for amendments to Section 4 regarding fire protection. New permitting forms.**

**ADJOURNMENT.**

**Motion** made by Mr. Kane, seconded by Mr. Fischer to adjourn at 8:40PM; unanimously approved.

Respectfully submitted,

Karen Griswold Nelson