



TOWN OF OLD SAYBROOK
**Inland Wetlands & Watercourses
Commission**

*J. Colin Heffernan, Chairman
Chuck Savage, Vice Chairman
Alex Bertan
Peter DeLisa (Conservation)
Mark Caldarella (Zoning)
Paula Kay (Planning)
Sandra Roberts (Economic Development)*

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Alternate Members
*Elizabeth D. Steffen, Secretary
Jay Kulowiec
Marcia Wilcox*

MINUTES
REGULAR MEETING
Thursday, January 18, 2024
Via Hybrid Meeting
Town Hall 1st floor conference room
302 Main Street, Old Saybrook

I. CALL TO ORDER

Chairman C. Heffernan called the meeting to order at 7:01 pm.

II. ROLL CALL

Members Present: C. Heffernan, C. Savage, A. Bertan (remote), P. DeLisa, P. Kay, S. Roberts, E. Steffen, M. Wilcox, J. Kulowiec (seated)

Members Absent: M. Caldarella

Staff Present: L. Wacker, Assistant Town Planner; C. Maharbiz, Recording Clerk

Audience Present: 4 in person, 2 remote

III. DELIBERATIONS

A. 23-010 “Scott D. Alexander” Application to Conduct a Regulated Activity

70 Otter Cove Drive, Map 63/Lot 36-001

Construction of single family house with attached garage, driveway, underground utilities and grading within 100’ upland review area.

Applicant/ Agent: Gregg Fedus, Fedus Engineering

Owner: Scott D. Alexander

ACTION: *Consider & Act (NLT 1/24/2023)*

C. Heffernan reviewed the status of the application and opened up the meeting to deliberations.

P. Kay stated that she listened to the recording of the last meeting. She further stated that all concerns have been addressed except that she is concerned with the requirement for the 50-foot easement, which she does not consider is in order based on what she read. She does not think there is any direct harm to the wetlands. Additionally, she mentioned that Mr. Brogie recommended enhancement of the buffer area but she does not agree. She does not think that allowing for a residential lot endangers the wetlands.

C. Heffernan pointed out that the applicant did not consent to an easement but agreed to put up markers. P. Kay further opined that the requirement that the applicant not use the buffer area is excessive and an unnecessary restraint. The applicant should be able to enjoy the property.

L. Wacker explained that the markers serve to educate whoever may buy the house that it is a wetlands area. It does not prevent hiking or walking in the area or normal uses of a residential area, but it does discourage the cutting down of trees and filling without a permit.

C. Savage stated that the property will be difficult to build on and will change the waterflow, and because of that, there were many concerns expressed that are peripheral to the Commission. The Commission's mission is to protect the wetlands and the Commission needs substantial evidence of adverse impact. He does not see substantial evidence of adverse impact here.

P. DeLisa concurred. He stated that while there are differences from an engineering perspective, the mission of protecting the wetlands was adequately provided for.

J. Kulowiec stated that part of the construction will be within the 100-foot review area. The way the plan was developed, half of that will not be disturbed. As long as the Commission makes the approval clear, he does not see an issue. On the engineering side, all the proposals were within the realms of professional judgment and nothing proposed was inherently flawed.

S. Roberts stated that all the issues raised were addressed and sees no viable impact on the wetlands.

C. Heffernan noted differences among the engineers, but pointed out that the Town's engineers said there would not be a substantial impact on the wetlands. He is in favor of the buffer area being marked. As to the bridge over the wetlands, he stated that digging for the footings will have a greater impact on the wetlands than the road. He opined that this is not a prudent alternative. There has not been evidence that the incremental increase in surface runoff will have a detrimental effect.

The Commission then discussed conditions. L. Wacker stated that the condition that is unclear pertains to enhancing the buffer area. There is no plan presented to enhance the buffer area and she pointed out that it is unclear who would determine that if it is a condition of approval. C. Heffernan suggested that the applicant confer with a wetlands scientist and the Town to develop a plan to supplement the buffer area with additional vegetation.

A. Bertan opined that it is a good plan and he has no objections; the wetlands are not in danger.

MOTION to approve **Application 23-010 "Scott D. Alexander"** at 70 Otter Cove Drive, Map 63/Lot 36-001, subject to the following conditions: (1) the applicant will work with the Town to develop a plan to supplement the 50 foot wetlands buffer area with additional vegetation as appropriate; (2) prior to the commencement of any site work, the limits of disturbance will be clearly marked in the field to prevent any inadvertent encroachment into the areas not to be disturbed; (3) prior to the commencement of any site work, trees and shrubs identified in the site plan to be preserved will be clearly identified in the field; (4) the boundary of the limits of disturbance of the surrounding wetlands area will be identified with permanent markers placed at intervals of no more than 50 feet; (5) the driveway culvert and level spreaders as indicated on the site plan will be maintained as needed in the future, and all of the usual stipulations and conditions that accompany every application; **MADE:** by C. Heffernan; **SECONDED:** by J. Kulowiec; **VOTING IN FAVOR:**

C. Heffernan, C. Savage, A. Bertan, P. DeLisa, S. Roberts, J. Kulowiec; **OPPOSED:** P. Kay; **ABSTAINING:** None; **APPROVED:** 6-1-0.

Carolyn Lyle, a member of the public present remotely asked if the Commission considered the precedent that will be set for other persons that want to go within the 100-ft. area. C. Heffernan explained that every application is examined individually and he does not think this decision will have a precedential effect.

IV. NEW BUSINESS

- A. Notice of Violation:** Issued 12/28/2023 for the clearing of vegetation and trees within 100-foot upland review area without a permit.
 133 Bokum Road (Map 61/Lot 4-1)
 Owner: Wilson Castaneda
Action: Discuss violation

L. Wacker explained the violation. She stated that in 2021, the Commission received an application for subdivision of property on Bokum Road so that a house could be built, which involved a long driveway and utilities leading to a building area. The applicant came in for the subdivision, construction of the driveway and the utilities, which was all that was permitted. When the house was to be built, the lot would be sold and the new owner would come before the Commission to receive a permit for the house. In December, she noticed that construction of the driveway had begun but had not been notified as per the permit. She explained what she saw when she visited, including the driveway being roughed out, soil piled up on the sides, no erosion and sediment controls, and quite a few trees taken down beyond the permitted area. The owner, Mr. Castaneda, explained that he was not made aware of the wetlands permit from the real estate attorney or real estate agent when he bought the property. He told her he noticed the wetlands flags and was careful to stay out of the area. She showed him the areas he was allowed to work in and asked him to put up erosion controls, which he did and he also changed the permit to his name. L. Wacker took pictures, which she passed out, along with a map showing where the pictures were taken.

Owner Wilson Castaneda explained that he cleared brush and dead trees, including trees taken down by the utilities company. He intends to clean and plant approved trees and to build a house to live in with his kids. He stated that he did not know he had to come before the Commission.

C. Heffernan explained that he needs a permit for construction of the house. He will need to come back with (1) a plan for everything that he wants to do on the site, such as the house and driveway, and (2) a restoration plan for planting new trees and vegetation for trees that were taken down outside of the permit.

B. Election of Officers

MOTION to nominate C. Heffernan as Chairman, C. Savage as Vice Chairman, and E. Steffen as Secretary to the Inland Wetlands and Watercourses Commission to continue their term for another year; **MADE:** by P. Kay; **SECONDED:** by C. Heffernan; **VOTING IN FAVOR:** C. Heffernan, C. Savage, A. Bertan, P. DeLisa, P. Kay, S. Roberts, J. Kulowiec; **OPPOSED:** None; **ABSTAINING:** None; **APPROVED:** 7-0-0.

V. REGULAR BUSINESS

A. Minutes – December 14, 2023 Show Cause Hearing, December 21, 2023 Regular Meeting

MOTION to approve the minutes of December 14, 2023 and December 21, 2023 as presented; **MADE:** by C. Heffernan; **SECONDED:** by C. Savage; **VOTING IN FAVOR:** C. Heffernan, C. Savage, A. Bertan, P. DeLisa, P. Kay, S. Roberts, J. Kulowiec; **OPPOSED:** None; **ABSTAINING:** None; **APPROVED:** 7-0-0.

B. Committee, Representative & Staff Reports – L. Wacker stated that P. DeLisa was appointed as the Representative from the Conservation Commission. She also stated that an application came in the day prior from Appleby Holdings, LLC at 9 Custom Drive for a micro-cultivation facility. The application is technically received today and will be on next month’s agenda. Materials will be posted online. Additionally, she reported that she had some wetlands markers made and showed a picture. In her research, she found that a lot of towns in Connecticut have them.

C. Correspondence & Announcements – None

VI. ADJOURNMENT

MOTION to adjourn the meeting at 7:41 p.m. to the next regular meeting on February 15, 2024, 7 p.m. Old Saybrook Town Hall, 302 Main Street, 1st Floor Conference Room and via Zoom; **MADE:** by C. Heffernan; **SECONDED:** by P. DeLisa; **VOTING IN FAVOR:** C. Heffernan, C. Savage, A. Bertan, P. DeLisa, P. Kay, S. Roberts, J. Kulowiec; **OPPOSED:** None; **ABSTAINING:** None; **APPROVED:** 7-0-0.

Respectfully Submitted,
Carolina Maharbiz, Recording Clerk