



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

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*J. Colin Heffernan, Chairman
Charles A Wehrly, III, Vice Chairman
Charles W. Savage*

*Alyse Oziolor (Conservation)
Madeleine B. Fish (Zoning)
Paula S. Kay (Planning)
Vacancy (Economic Development)*

Alternate Members
*Elizabeth D. Steffen, Secretary
Janis L. Esty*

**MINUTES
REGULAR MEETING**

Thursday, September 17, 2020 at 7:00 P.M.
Via Teleconference

I. CALL TO ORDER

The Chairman called the teleconference to order at 7:00 p.m.

II. ROLL CALL

Members Present: C. Heffernan, C. Wehrly, C. Savage, P. Kay, A. Oziolor, E. Steffen

Members Absent: M. Fish, J. Esty

Staff Present: P. Hegge, Environmental Planner; L. Wacker, Recording Clerk

III. OLD BUSINESS

20-013 “Maynard” Application to Conduct a Regulated Activity

Excavating and construction of a new 26’ x 32’ garage with new concrete foundation within the 100’ upland review area.

27 Chalker Beach Road (Map 26/Lot 25)

Owner: Warren & Susan Lavena

ACTION: *Consider proposed activity, deliberate and act.*

Tom Maynard was in attendance representing the applicants. There were no questions from the commission members.

MOTION to approve the application (20-013) “Maynard”, 27 Chalker Beach Road (Map 26/Lot 25; **MADE:** by C. Heffernan; **SECONDED:** by P. Kay; **VOTING IN FAVOR:** C. Heffernan, C. Wehrly, C. Savage, P. Kay, A. Oziolor, E. Steffen; **OPPOSED:** None; **ABSTAINING:** None; **APPROVED** 6-0-0.

IV. NEW BUSINESS

A. “Auld” Show Cause Hearing

Cease & Desist Order issued on October 24, 2019

Placement of fill in wetlands and within the 100’ upland review area.

6 Trails End, (Map 16/ Lot 68-4)

Owner: Christopher & Kerry Auld

Christopher Auld, owner, and his consultant, soil scientist James Sipperly, were present. Mr. Sipperly apologized for missing the previous three meetings and explained that he tried unsuccessfully to connect to those meetings due to spotty cell service at his home. He explained that they submitted a lot of correspondence, and had a lot of correspondence with P. Hegge and the commission as well, to move forward with the planting. C. Heffernan asked P. Hegge to report on the status of the matter. Mr. Hegge reported that he last visited the site on June 24th and observed that the vegetation within the wetland was slowly regenerating, and that he didn't observe anything significant going on and had nothing new to report.

C. Heffernan opened the meeting to the commission members to bring up any concerns they may have with the restoration of the site. Mr. Sipperly stated that Mr. Auld did a great job with the planting and restoration. He went on to state that they just need to make sure the plantings sustain themselves over the next one or two years and that invasive species do not return, and suggested they do a check in a year or two to make sure. A. Oziolor stated that she supported yearly monitoring and would like to see photographs showing the species that are in the wetland.

A. Oziolor asked for a rundown on the work that was done at the perimeter of the wetland, including the drain, the stones placed near the drain, and the matting. Mr. Sipperly explained that the matting was placed to help establish the wetland vegetation seeding. C. Auld added that the straw matting is biodegradable and helps the seeds grow, and that the pre-existing pipe comes from a drain on the other side of the driveway. The stones were placed where the pipe discharges to prevent erosion. A. Oziolor stated that the stones were placed in a wetland which requires a permit. Mr. Sipperly responded that Mr. Auld is under an enforcement action and the stones were a prudent best management practice. There was a discussion about whether the wetland is federally regulated. C. Heffernan asked if the stones were placed before or after the enforcement action. Mr. Auld replied that it was done after, as a means to prevent erosion and stabilize the wetland bank. Mr. Sipperly added that the work Mr. Auld did had no adverse impact on the wetlands. There was further discussion about the stones.

A. Oziolor stated that she is not opposed to the erosion control measures, but is concerned about the actions that are being taken without a permit or consultation with the commission. These actions were not on the plan and the commission was not informed that these things were part of the restoration plan. Mr. Sipperly responded that this is not an application, it is an enforcement action, and Mr. Auld was told by staff and the commission to do certain things to correct the Cease and Desist Order and enforcement action. C. Heffernan stated that if Mr. Auld is doing things within the wetland that are not part of the enforcement action, that is a problem. Mr. Sipperly stated that he believes Mr. Auld has satisfied all of the requirements of the enforcement action, and he does not need to go back and get a permit.

C. Heffernan asked Mr. Sipperly to explain to the commission how the requirements were satisfied. Mr. Sipperly briefly described the actions that took place and explained that everything requested, other than invasive species monitoring, was completed. C. Heffernan asked if he did anything in addition and Mr. Sipperly stated that he did nothing else. C. Heffernan asked P. Hegge if there were any outstanding items other than the continued monitoring of invasive species. P. Hegge stated that he did not feel there were any outstanding items- the only thing he would like to have is a report from Mr. Auld stating what best management practices were carried out to satisfy the enforcement action. C. Heffernan asked

Mr. Auld to provide an as-built showing all of the work that was done. There was a discussion of how to present this information to the commission. It was determined that Mr. Auld would provide an as-built (updated site plan) showing the location of the drain pipe/stone and any work that was done in and within 100 feet of the wetland, a photo of the stone at the pipe outfall, and a report stating what best management practices were implemented in carrying out the requirements stipulated in the Cease and Desist Order/enforcement action. Once those items are satisfied, the Cease and Desist Order will be removed and the issue will be resolved, with the understanding that monitoring will continue once a year during the spring/early summer for two years to ensure that the invasive species are controlled. P. Hegge will also conduct follow up visits in two and four months to monitor the progress, and Mr. Auld will state that in the best management practices report/letter. Mr. Sipperly requested that the Cease & Desist order be removed conditionally, subject to providing the requested information.

MOTION to suspend the Cease & Desist Order for “Auld” Violation, 6 Trails End (Map 16/Lot 68-4) subject to the applicant providing an as-built plan detailing the drain pipe and stone, recent photos of the site, and best management practices report to the commission by October 13th, 2020, prior to the next regular meeting on October 15, 2020; **MADE:** by C. Heffernan; **SECONDED:** by E. Steffen; **VOTING IN FAVOR:** C. Heffernan, C. Wehrly, C. Savage, P. Kay, A. Oziolor, J. Esty; **OPPOSED:** None; **ABSTAINING:** None; **APPROVED** 6-0-0.

MOTION to rearrange agenda items B “Discussion” and C “LaMay”; **MADE:** by C. Heffernan; **SECONDED:** by P. Kay; **VOTING IN FAVOR:** C. Heffernan, C. Wehrly, C. Savage, P. Kay, A. Oziolor, J. Esty; **OPPOSED:** None; **ABSTAINING:** None; **APPROVED** 6-0-0.

C. 20-015 “LaMay” Application to Conduct a Regulated Activity

Construction of a 320 s.f. three season porch within the 100’ upland review area.

3 Fawn Trail (Map 50/Lot 11)

Owner: David & Linda LaMay

***ACTION:** Received 9/16/2020, Review for completeness, Accept application and determine if regulated activities are significant.*

David LaMay was present and explained that they would like to rebuild in the former location of a deck that was removed 18 years ago, to construct a 3-season porch. C. Heffernan observed that it is barely within the upland review area. C. Wehrly asked if the application should say “porch” rather than “deck”. Mr. LaMay replied that is correct, it should say “porch”. Mr. Wehrly asked the applicant to describe the wetland and the contour of the property. Mr. LaMay replied that it is a stream that flows into a pond that is even further away. The property is fairly flat but slopes down toward the stream, which is approximately 10-12 feet lower than the house. A. Oziolor asked if the porch would be on piers or a foundation, and if heavy equipment would be used. Mr. LaMay replied that it would be constructed on piers and no heavy equipment would be used. A. Oziolor asked if there would be a roof with gutters, and which direction the gutters would be flowing. Mr. LaMay replied that there would be a roof and the gutters would be flowing toward the east.

MOTION to accept the application (20-015) “LaMay”, 3 Fawn Trail (Map 50/Lot 11) as

complete, with no significant impact and no Ord. 71 fees required; **MADE:** by C. Heffernan; **SECONDED:** by A. Oziolor; **VOTING IN FAVOR:** C. Heffernan, C. Wehrly, C. Savage, P. Kay, A. Oziolor, E. Steffen; **OPPOSED:** None; **ABSTAINING:** None; **APPROVED** 6-0-0.

B. Discussion: Review proposal on what is right for administrative adjudication

***ACTION:** Consider administrative proposal to be complete.*

There was a discussion about whether the wetlands regulations need to be amended to allow for the issuance of administrative permits. P. Hegge will consult with Attorney Cronin on that matter. C. Heffernan stated that if an amendment is not necessary then P. Hegge can begin issuing administrative permits right away.

The commission members continued a discussion of what would be right for the administrative adjudication of wetland permits.

MOTION to adopt guidelines for issuing administrative permits, with the amendment to state that as-of-right uses including rain gardens, butterfly meadows, bee meadows and koi ponds should specify “within the upland review area”; **MADE:** by C. Heffernan; **SECONDED:** by E. Steffen; **VOTING IN FAVOR:** C. Heffernan, C. Savage, C. Wehrly, P. Kay, A. Oziolor, J. Esty; **OPPOSED:** None; **ABSTAINING:** None; **APPROVED:** 6-0-0.

MOTION to authorize the environmental planner Patrick Hegge to issue administrative permits subject to the adopted guidelines; **MADE:** by C. Heffernan; **SECONDED:** by A. Oziolor; **VOTING IN FAVOR:** C. Heffernan, C. Savage, C. Wehrly, P. Kay, A. Oziolor, J. Esty; **OPPOSED:** None; **ABSTAINING:** None; **APPROVED:** 6-0-0.

V. REGULAR BUSINESS

A. Meeting Minutes: August 20, 2020

MOTION to approve the regular meeting minutes of August 20, 2020 as presented; **MADE:** by C. Heffernan; **SECONDED:** by E. Steffen; **VOTING IN FAVOR:** C. Heffernan, C. Wehrly, C. Savage, P. Kay, A. Oziolor, E. Steffen; **OPPOSED:** None; **ABSTAINING:** None; **APPROVED:** 6-0-0.

B. Correspondence & Announcements –

P. Hegge stated that a budget report, Strategic Plan update and conservation circular were included in the packets and asked if there were any questions. There were no questions from the commission.

B. Committee, Representative & Staff Reports

E. Steffen reported that she has photos of the Harms property for those who were not able to attend the site visit.

A. Oziolor reported that the Conservation Commission is sponsoring a coastal cleanup on Saturday, September 26th 10-noon and invited the commission members to participate.

P. Hegge reported that there was a complaint of dumping within the inland wetlands at 92 Spencer Plain Road (Map 46/Lot 16). He will visit the site and report on his findings at the next meeting.

P. Hegge reported that he closed out the complaint on Bokum Road.

VI. **ADJOURNMENT**

MOTION to adjourn the meeting at 8:35 p.m. to October 15th, 2020 at 7:00 p.m., Town Hall, 302 Main Street or via teleconference; **MADE:** by C. Heffernan; **SECONDED:** by P. Kay; **VOTING IN FAVOR:** C. Heffernan, C. Wehrly, C. Savage, P. Kay, A. Oziolor, E. Steffen; **OPPOSED:** None; **ABSTAINING:** None; **APPROVED:** 6-0-0.

Respectfully Submitted,

Lynette Wacker
Recording Clerk