



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

*J. Colin Heffernan, Chairman
Charles W. 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
SPECIAL MEETING
Thursday, December 14, 2023
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 7:00 pm.

II. ROLL CALL

Members Present: C. Heffernan, P. DeLisa, M. Caldarella, P. Kay, E. Steffen (seated), J. Kulowiec (seated)

Members Absent: C. Savage, A. Bertan, S. Roberts, M. Wilcox

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

Audience Present: 3 in person, 3 remote

III. NEW BUSINESS

A. “Atlas Construction” Continued Show Cause Hearing

Cease & Desist Order issued on November 20, 2023

Unauthorized regulated activity within 100’ upland review area.

0 Middlesex Turnpike (Map 41/Lot 1 and Map 42/Lor 3)

Owner: 0 Middlesex Turnpike, LLC

L. Wacker reported that the Commission had a site visit and Commission members can now discuss their observations. C. Heffernan stated that the disturbance was well outside of the permit, which was noted by the town’s agents, the owner’s agent, and Commission members. He further observed a scene of destruction in the wetlands and upland review area. M. Caldarella observed that significant trees, larger than 30 inches in diameter, had been cut, including trees in abutting owners’ properties. He further noted significant damage to the wetlands. J. Kulowiec noted the blatant disregard for permit conditions in the regulations. P. DeLisa stated that it is hard to imagine something this severe occurring with so much current concern for the livelihood of trees. P. Kay asked whether it would be pertinent to hear the circumstances of other Cease and Desist orders existing elsewhere for this applicant, as it could provide information on motivation. Town attorney Matthew Willis stated that it would be best to stay focused on the issue before the Commission.

Town consulting soil scientist Martin Brogie provided his comments on the impact of the unpermitted activity and what he considers to be the best steps forward. He stated that in his 32 years as an environmental professional he has never seen something so egregious and unchecked as this project. Specifically, he reported that the land clearing went off the property in 3 different directions, not only crossing property boundaries but also encroaching far beyond limits and into the wetlands. He noted that the impact on the neighboring properties is astounding. He reported that he spoke to the owner's expert Eric Davison and it appears the owner is willing to be proactive to remedy the situation. He further stated that the work to clear the downed trees should be done carefully and with oversight and noted that he did not see significant erosion or soil disturbances. Once removal occurs, he suggested conducting a stump count and determining the diameter and species of trees removed to try to put back what was lost. He further suggested getting trees as big as possible.

C. Heffernan asked if there is a risk of further damage to the wetlands by leaving the felled trees for another month while the Commission waits for the owner to prepare an application. Mr. Brogie responded that mostly there is not, but that he is not sure about the southeast area where cut maples may have fallen on some trees and brush, which if not cleared are less likely to come back.

C. Heffernan expressed that he is inclined to ask the property owner to: (1) consult with other property owners to obtain permission for removal of the felled trees and (2) propose a plan for removal of the felled trees under the supervision of town experts. If there are smaller trees or shrubs that can be saved without heavy machinery and with hand tools, he proposed that it be handled administratively and commenced before the application is submitted. Attorney Matthew Willis confirmed that the Commission could do what C. Heffernan proposed.

The property owner's wetland scientist, Eric Davison, responded. He stated that the reason for removal of the trees is to be able to conduct a full assessment. Once the trees are removed, he proposed to reset the wetlands flags as well as expand the wetlands boundary flagging. If winter cover is necessary, can do that also. He further proposed coming up with a planting plan and expressed an opinion that the plan should not involve overplanting. He also suggested separating habitat restoration of the wetlands and aesthetic restoration in the neighboring properties. Additionally, he suggested removal of tires and other debris once the area is cleared.

C. Heffernan asked if, prior to Ordinance 71 fees being proposed, the property owner consents to pay fees for Mr. Brogie to supervise the pre-debris removal work to save any plants that can be saved. Attorney for the owner Marjorie Shansky agreed to supervision. C. Heffernan proposed to continue the Show Cause Hearing with the Cease-and-Desist Order in effect until January and in the meantime for Mr. Davison and Mr. Brogie to communicate regarding any preliminary work that needs to be done, and between now and January for the property owner to come up with a plan for the removal of the felled trees in order to accomplish mapping of wetlands and area of disturbance.

J. Kulowiec stated that cost estimates need to be prepared for site restoration and suggested requiring a bond or surety under section 13. Attorney Willis opined that the Commission could request a bond at the January meeting once an estimate is prepared. C. Heffernan then stated that the owner should bear the burden of developing a plan with consultants and staff, setting an appropriate budget for oversight and including a cost estimate for remediation so that the Commission can set a bond.

C. Heffernan asked if anyone from the public wanted to comment.

Carolyn Lyle, an Old Saybrook resident and Chair of SOS Trees, mentioned that she submitted a letter. She stated that she would like to know how this happened in the first place and how to make sure it does not happen again. She further stated that Old Saybrook has the lowest tree canopy of the shoreline and second lowest of Middlesex County. The trees that were lost were 20 to 30 years old and will not get that benefit back by planting new trees. The owner needs to make the community whole and she included suggestions on how to do that in her letter.

Sharon Crockett, also a member of SOS, stated that this individual has been doing this since 2005. His actions are historic and need to stop.

L. Wacker stated that a letter was left in the conference room from Kathleen Connolly and she read the letter into the record.

The property owner's engineer, Michael Ott, discussed the need to establish the property boundaries and obtaining permission for the land surveyor to be on site. C. Heffernan clarified that the owner will first need to obtain permission from all the affected landowners in writing, then the land surveying and low impact remediation by hand without equipment will need to be accomplished under the supervision of the town. Attorney Shansky stated that the surveyor has obtained permission for the survey and C. Heffernan then clarified that permission needs to be obtained for anything else that needs to be done. Commission members then discussed when to hold the continued show cause hearing.

MOTION to continue the Show Cause Hearing until January 18, 2024 at 6 p.m. in the First Floor Conference Room, Old Saybrook Town Hall, that the Cease and Desist Order will remain in place, and that in the meantime the applicant work with the Town to ensure that all steps necessary to create a permanent application for the removal of felled trees is accomplished; **MADE:** by C. Heffernan; **SECONDED:** by E. Steffen; **VOTING IN FAVOR:** C. Heffernan, P. DeLisa, M. Caldarella, P. Kay, E. Steffen, J. Kulowiec; **OPPOSED:** None; **ABSTAINING:** None; **APPROVED:** 6-0-0.

IV. ADJOURNMENT

MOTION to adjourn the meeting at 7:49 p.m. to the next regular meeting on December 21, 2023, 7:00 p.m. Old Saybrook Town Hall, 302 Main Street, 1st Floor Conference Room and via Zoom; **MADE:** by C. Heffernan; **SECONDED:** by M. Caldarella; **VOTING IN FAVOR:** C. Heffernan, P. DeLisa, M. Caldarella, P. Kay, E. Steffen, J. Kulowiec; **OPPOSED:** None; **ABSTAINING:** None; **APPROVED:** 6-0-0.

Respectfully Submitted,
Carolina Maharbiz, Recording Clerk