



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

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

[www.oldsaybrookct.gov](http://www.oldsaybrookct.gov)

*Richard J. Esty (Conservation)  
Madeleine B. Fish (Zoning)  
Paula S. Kay (Planning)  
Vacancy (Economic Development)*

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

**MINUTES  
SPECIAL MEETING**

Wednesday, October 30, 2019 at 7:00 P.M.  
Town Hall, 1<sup>st</sup> Floor Conference Room  
302 Main Street, Old Saybrook

**I. CALL TO ORDER**

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

**II. ROLL CALL**

**Members Present:** C. Heffernan, C. Wehrly, R. Esty, M. Fish, A. Oziolor, E. Steffen, P. Kay, J. Esty (arrived at 7:15)

**Members Absent:** C. Savage

**Staff Present:** P. Hegge, Environmental Enforcement Officer; C. Costa, Zoning Enforcement Officer; L. Wacker, Recording Clerk

**Guest:** Atty. Michael Cronin, IWWC Counsel

**II. NEW BUSINESS**

The Chairman stated they would first be hearing from Atty. Michael Cronin regarding Item B on the agenda.

**B. “Auld” Show Cause Hearing**

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

Owners: Christopher and Kerry Auld

Cease & Desist Order issued on October 24, 2019. Placement of fill in wetlands and within the 100’ upland review area

Atty. Cronin stated that the applicant could not be present but would be available by phone. Atty. Cronin summarized the case and stated he feels the applicant should be given every opportunity to cooperate with the Commission to resolve the problem and avoid penalties. Mr. Auld joined the meeting via telephone. P. Hegge stated the reason for the Cease and Desist Order: as a result of a September 24<sup>th</sup> complaint from a neighbor, P. Hegge visited the site on October 9, 2019 at 10:30 am. No one answered the door or appeared to be present at the home. He observed disturbance within the regulated area and took photos. P. Hegge heard from DEEP that they received a complaint on October 11<sup>th</sup>. DEEP determined the disturbance was not affecting tidal wetlands and turned jurisdiction over to the IWWC. P. Hegge described what he observed on the property and read aloud the statues of the law regarding the alternation of wetlands to substantiate the apparent violation. The exhibits (photos, maps and correspondence) were introduced and discussed. P. Hegge stated that he would like to work with Mr. Auld to resolve the issue. The enforcement actions that

he would be seeking are for Mr. Auld to cease and desist all activities within the wetland and upland review areas, hire a licensed soil scientist to delineate the wetlands, and then submit an application and plan for any further activities as well as a restoration plan. A. Oziolor stated it might be difficult to delineate a current wetland boundary because of the fill that has been deposited. R. Esty stated that the soils should still be intact underneath the fill. C. Heffernan asked Mr. Auld to state his case. Mr. Auld explained that he and his wife moved to CT from the UK a little over a year ago and were unfamiliar with the regulations. They noticed invasive phragmites on the property and their intention was to return the property to its natural setting. He consulted with DEEP and several landscaping companies and the need for a permit was not mentioned to him. The property is beginning to recover and cattails are growing. They are not filling in the marsh. They would like to do the right thing and they are looking for guidance. He stated that the fence shown in the pictures was put up by the neighbor to replace an existing fence that was in disrepair. Mr. Auld also stated that the front of the property was raised and two other berms were added for privacy and aesthetics. Atty. Cronin asked if Mr. Auld was still willing to meet with P. Hegge to work on a solution. Mr. Auld stated he would absolutely be available. Mr. Cronin stated that the approximately 50 yards of fill would also require a permit and would need to be reviewed by the IWWC. C. Heffernan wanted to move on to discussing remedies and stated that they will need Mr. Auld to submit a permit application showing what has been done and what is proposed to be done within the upland review area of the wetland at the very least. M. Cronin suggested continuing the matter to the next meeting on November 21, 2019 at 7:00 pm.

**MOTION** to continue the matter “**Auld**” **Show Cause Hearing**, 6 Trails End (Map 16/Lot 68-4) until the next regular meeting; **MADE** by C. Heffernan; **SECONDED** by E. Steffen; **VOING IN FAVOR**: C. Heffernan, C. Wehrly, R. Esty, M. Fish, P. Kay, A. Oziolor, E. Steffen; **OPPOSED**: None. **ABSTAINING**: None. **APPROVED**: 7-0-0.

**MOTION** to amend the agenda to next take Item D, discussion with Atty. Michael Cronin, IWWC counsel, on procedures and administrative permits and general legal questions; **MADE** by C. Heffernan; **SECONDED** by E. Steffen; **VOING IN FAVOR**: C. Heffernan, C. Wehrly, M. Fish, A. Oziolor, R. Esty; P. Kay, E. Steffen; **OPPOSED**: none; **ABSTAINING**: none; **APPROVED**: 7-0-0.

**D. Discussion: Attorney Michael Cronin, IWWC Legal Counsel**  
Procedures for administrative permits and general legal questions

M. Cronin stated that he would like to sit down with the IWWC to review the new laws and possibly amend the existing regulations. He stated that administrative permits must be issued by a representative or member of the commission that is certified. They cannot delegate authority to anyone who does not have that qualification. The state of CT has not scheduled the necessary certification class so the commission must issue any permits themselves. There should be amendments to specify what circumstances under which they would issue administrative permits. An appropriate time to have that discussion would be after the new IWWC is appointed, perhaps at the January meeting. The Commission thanked Atty. Cronin for his counsel.

- A. 19-010 **“Fitzsimmons” Application to Conduct a Regulated Activity**  
17 Denmore Lane (Map 18/Lot 11)  
Applicant/Owner: Lisa Fitzsimmons  
Action: Accept application and determine if a significant activity

P. Hegge explained that the applicant is proposing to construct a new 6’ high wooden fence, a small area of which would be within the outer limits of the upland review area.

**MOTION** to accept 19-010 **“Fitzsimmons” Application to Conduct a Regulated Activity**, 17 Denmore Lane (Map 18/Lot 11) as complete and determine that it is not significant; **MADE** by C. Heffernan; **SECONDED** by R. Esty; **VOTING IN FAVOR**: C. Heffernan, C. Wehrly, R. Esty, M. Fish, E. Steffen, P. Kay, A. Oziolor; **OPPOSED**: None. **ABSTAINING**: None. **APPROVED**: 7-0-0.

- B. 19-011 **“Carpenter” Application to Conduct a Regulated Activity**  
18 Ruth Drive (Map 21/Lot 87)  
Owner: Sherry Shea White  
Action: Accept application and determine if a significant activity

E. Steffen recused herself. P. Hegge explained that the applicant put in a 12’ x 16’ shed at the rear of the property, as well as an above-ground pool and deck which appear to be within or partially within the upland review area. These features are existing but the applicant is seeking a permit after the fact. M. Fish advised the members to visit the site. C. Costa stated that if the commission were to accept and make a determination tonight they could then potentially act or open a public hearing at the next meeting. C. Heffernan asked if there were any questions as to the completeness of the application. C. Wehrly stated that the property appears to be within the wastewater management district, and the septic location is not shown on the map. Although it may not be pertinent to inland wetlands, his concern is that if they have not yet done an upgrade they may lose the deck. There was a discussion about the lack of information shown on the plot plan. C. Heffernan stated he would like to see a map which delineates the wetland area, especially for an after the fact application. There was further discussion about the application and the lack of wetland information on the plan. P. Kay stated there should be some balance between the level of detail needed to review an application and the cost to the applicant. C. Costa suggested the commission decide on some parameters outlining what an applicant needs to provide at a minimum to submit an application, to guide staff as well as the public.

**MOTION** to accept 19-011, **“Carpenter” Application to Conduct a Regulated Activity**, as complete and find activity is not significant; **MADE** by P. Kay; **SECONDED** by C. Heffernan; **VOING IN FAVOR**: P. Kay; **OPPOSED**: C. Heffernan, C. Wehrly, M. Fish, A. Oziolor, R. Esty; **ABSTAINING**: E. Steffen; **MOTION DID NOT CARRY**: 1-5-1.

J. Esty was seated for E. Steffen.

**MOTION** to deem 19-011 **“Carpenter” Application to Conduct a Regulated Activity** incomplete; **MADE** by C. Heffernan; **SECONDED** by M. Fish; **VOING IN FAVOR**: C. Heffernan, C. Wehrly, M. Fish, A. Oziolor, R. Esty, J. Esty; **OPPOSED**: P. Kay; **ABSTAINING**: E. Steffen; **APPROVED**: 5-1-1.

IV. **ADJOURNMENT**

**MOTION** to adjourn the meeting at 9:01 p.m. to November 21, 2019 at 7:00 p.m., Town Hall, 302 Main Street; **MADE** by C. Heffernan; **SECONDED** by R. Esty; **VOTING IN FAVOR**: C. Heffernan, C. Wehrly, R. Esty, P. Kay, J. Esty, E. Steffen, A. Oziolor; **ABSTAINING**: None; **APPROVED**: 7-0-0.

Respectfully Submitted,

Lynette Wacker  
Recording Clerk