

Town of East Hampton
Inland Wetlands and Watercourses Agency
Regular Meeting

August 30, 2023 – 6:30 P.M.
East Hampton Town Hall Meeting Room

DRAFT MINUTES

Present: Chairman Joshua Wilson, Vice-Chairman Dean Kavalkovich, David Boule, Peter Wall, Derek Johnson, and Scott Hill

Absent: None.

1. Call to Order: The meeting was called to order at 6:31 p.m. by Chairman Wilson.

2. Seating of Alternates: None.

3. Approval of Minutes:

A) July 26, 2023 Meeting: Mr. Wall made a motion to approve the July 26, 2023 minutes as written. The motion was seconded by Mr. Boule.

Vote: 4-0

Vice-Chairman Kavalkovich and Mr. Hill arrived to meeting.

4. Communications, Enforcement and Public Comment:

Communications: None.

Enforcement: Mr. DeCarli referred the Commission to correspondence he had with property owners at 33 High Point. Mr. DeCarli explained the property has a conservation easement on the riverfront and reported the property owners opened a wide swath of land down at the riverfront, installed a shed and built a set of stairs. Mr. DeCarli reported he sent them a letter and is working with them on a remediation plan to remove the shed, allow nature to support itself, and recommended they work with a landscaper to get plantings that prevent invasive species. Mr. DeCarli stated the property owners claim the stairs to the river are historical, he has no records of that claim and they would need IWWA approval if they intend to keep the stairs. Mr. Wall asked if the State has oversight and Mr. DeCarli replied no, as the activity is above the high-water mark. Mr. Johnson asked Mr. DeCarli if he was letting them keep the gravel path. Mr. DeCarli replied yes, he would prefer not to remove it and have nature take its course, the gravel will allow water to infiltrate, and removing it would need them to have erosion control on the slope. Mr. DeCarli stated he

would like the Commission to review and provide their comments on his remediation plan. Chairman Wilson asked if he had pictures and Mr. DeCarli replied yes but not with him tonight and will share with them. Commission Members agreed they would like to review photos. Mr. DeCarli provided Google Earth images of the property and explained site changes. Commission Members briefly discussed changes. Mr. Hill expressed concern with the activity in the conservation easement. Mr. Hill asked if the Commission has the authority to let the items remain in the easement. Mr. DeCarli replied the easement is held by the Town, PZC has the authority to grant the right for the items to remain in the easement. Mr. Hill asked if Mr. DeCarli will have the PZC review an application for the path to remain. Mr. DeCarli replied he would potentially have them for the stairs but not for the gravel path. He further explained he believes the path should remain and not be disturbed. Mr. Hill reiterated concern with the activity in the conservation easement. Commission Members discussed conservation easements and their authority. Mr. Johnson asked if they only have authority over 150' upland review area. Mr. DeCarli explained the property owners have been notified, discussed his remediation plan order and explained the Commission's authority. Mr. Hill discussed who is responsible for work in the easement and enforcement. Chairman Wilson and Vice-Chairman Kavalkovich discussed the Commission's responsibility, jurisdiction, and agreed activity in the conservation needs to be addressed. Vice-Chairman Kavalkovich asked for clarification on if the area disturbed was a path or road. Chairman Wilson replied it is a path and Mr. DeCarli noted he believes the path stops at the shed. Mr. Johnson asked how far the shed is from the water line. Mr. DeCarli used Google Earth to report it is within 150' upland review area. Mr. DeCarli asked the Commission if they are comfortable with the remediation plan he issued. Mr. Johnson asked how far the road goes into the 150' URA. Mr. DeCarli replied approximately 93' from waters edge. Chairman Wilson replied the Commission has jurisdiction because of potential erosion hazard that could occur due to the site's topography. Mr. Hill discussed conservation easements and wetland impacts. Chairman Wilson discussed what the commission has authority over. Mr. Hill discussed enforcement of conservation easements. Mr. Hill asked if PZC is aware of the activity taken place and are they acting on it. Mr. DeCarli replied he has acted concerning the activity in the conservation easement on PZC behalf with the enforcement order to remediate. Mr. DeCarli briefly discussed the enforcement order. Mr. Johnson asked if the property owners agreed with his enforcement order. Mr. DeCarli replied yes but they would like to keep the path. Chairman Wilson asked condition of the nature of ground cover in the cleared area. Mr. DeCarli replied he did not walk the property, was able to see the site from the neighbor's property as the property owners have not let him gain access. Mr. DeCarli reported they did not remove the stumps and brush is still there. Chairman Wilson expressed concern with invasive species and recommended a natural vegetated system. Vice-Chairman Kavalkovich asked if any action to remediation would require a permit. Mr. DeCarli replied no only if they would like to keep the shed, stairs and path. Vice-Chairman Kavalkovich clarified that remediation action

did not need approval from the Commission and Mr. DeCarli replied he did not think they needed to unless the Commission decides otherwise. Mr. Johnson asked if the owners plan to maintain the path and Mr. DeCarli replied yes, the gravel path will be maintained as a walking path. Mr. Wall asked if the remainder of the path in the 150' upland review area needed a permit from the Commission and Mr. DeCarli replied it is up to the Commission. Mr. Hill expressed concern with the activity in the conservation easement. Mr. Johnson expressed concern with size of the path and noted the entire path would be in their jurisdiction regardless of an easement. Mr. Hill expressed concern with Mr. DeCarli not being able to access the site and would like an application from the property owners and Mr. Wall agreed. Mr. Johnson discussed the matter setting precedents for the activity in the conservation easement. Chairman Wilson summarized that the Commission is ok with the principle of the remediation action but because they did the activity they would like an application to justify the design to determine if path can stay or must be removed and further remediated. Vice-Chairman Kavalkovich asked if it would be a permit application or show cause hearing. Commission members discussed show cause hearings. Mr. DeCarli explained the enforcement action, they have been informed they must remove the shed, if they want stairs to remain they will need approvals from PZC and IWWA. Mr. DeCarli explained he thought it was best to leave the gravel rather than cause more disturbance but the Commission can decide if owners will need a permit to keep the gravel path. Commission Members discussed the gravel path and vegetated management plan for area of removed trees. Mr. Hill briefly discussed property owners need for a permit. Chairman Wilson asked if a show cause hearing is required. Mr. DeCarli replied they can issue a cease and desist which will force the show cause and reminded the Commission if he issues it then a show cause hearing is required within 10 days or he can have them apply for a permit. Mr. Hill stated he would like the clearing to be addressed. Mr. Johnson expressed concern with allowing the road to be maintained versus letting nature take its course. Commission Members agreed to have the property owners apply for a permit. Chairman Wilson advised Mr. DeCarli the Commission requires a permit application for the access road and clearing in the easement.

Public Comment: None.

5. Agent Approval: None.

6. Reading of the Legal Notice: None.

7. Continued Applications:

A. Application IW-23-016: Matthew Pegolo, 292 West High St., Construct a single-family home within Upland Review Area. Map 06/ Block 6/ Lot 3B. Mike Sullivan, Professional Engineer, East-West Engineering of West Hartford and Matt Pegolo, Architect

presented plans for a 48' x 48' single home with a private well and septic. Galen Semprebon, Senior Project Manager and Profession Engineer with East-West Engineering explained previously the project was approved for a two-lot subdivision and now propose a single lot for a single-family home. Mr. Semprebon provided the location for proposed house, garage, driveway, septic and noted wetlands location. Mr. Semprebon noted they are all outside of the 100' upland review but 720SF of grading is required in the upland review area. Mr. Semprebon also noted a solar array and provided location. Mr. Semprebon noted plans for erosion control measures including silt fencing. Mr. Semprebon stated they have approval for septic design. Mr. Hill asked if the application is a modification to an existing application as the Commission previously approved activity on the lots. Mr. Semprebon replied approval is more than five years ago. Mr. Hill clarified the proposed plans are taking two lots and combining into one. Mr. Hill asked if they are reducing impacts and asked for reduction from the original plan to current proposed plan. Mr. Semprebon replied there will be some reduction as the second septic system from the previous approval is eliminated in the upland review area. Vice-Chairman Kavalkovich asked for clarification on location of stream on the north side of property off of Airline Trail and a brook located on west side of the property. Mr. Semprebon provided brook location and provided location of easement in favor of the Town. Mr. Wall asked if fill is for the septic and Mr. Semprebon replied the fill is for the driveway and provided details. Mr. Wall asked if the septic reserve is located in the upland review area and Mr. Semprebon replied yes, a portion is and did not anticipate ever needing the reserve area based off of the soils and perc rate. Chairman Wilson asked for permanent stabilization plan for the slope. Mr. Semprebon replied the plan is for loaming and seeding but it also depends on the time of the year. Vice-Chairman Kavalkovich made a motion to approve the application IW-23-016: Matthew Pegolo, 292 West High St., Construct a single-family home within Upland Review Area. Map 06/ Block 6/ Lot 3B using the standard short form permit as presented. For the following reasons: minimal impact design, no direct wetland impact and little impact to the Upland Review Area. Mr. Wall seconded the motion. **Vote 6-0**

B. Application IW-23-017: Flanders Road Estates, LLC, Flanders Road, Fifteen (15) Lot Subdivision with 46,400 square feet of disturbance in the Upland Review Area, (Home Acres Estates), Map 26/ Block 87/ Lot 6. Rob Baltramaitis, Professional Engineer, explained proposed plans for a 15-lot subdivision. Mr. Baltramaitis explained the location and noted 311' of frontage on Flanders and 53 acres in size. Mr. Baltramaitis explained the site slopes from east to west and has a drainage divide with the first divide drains to the north and other portion drains easterly. Mr. Baltramaitis stated there are three wetland areas on the property, provided their location and brief details. Mr. Baltramaitis discussed proposed plan is for a 15-lot subdivision with three of the lots accessed with a 22ft wide shared driveway at Pecausett Trail. He stated the remainder of the lots will have access by a new road way off of Flanders Rd. called Quinn's Way. He

explained the road will be 1400' in length, 22ft wide and proposed vegetated roadside swales on both sides implementing best management practices recommended by DEEP. He discussed the property is in the R4 zone which requires 2-acre parcels, most proposed parcels are slightly in excess of 2 acres due to lot configuration, well radius and septic systems. He noted lots 10 and 11 are in excess of 4 acres each, lot 8 is 16 acres with 7 ¾ acres of conservation easement. He also noted the wetlands will be conservation easements. He explained the site has two drainage divides, proposes a detention basin on the right side of the roadway and a second detention basin in drainage divide two and provided locations. He briefly discussed drainage calculations and rainfall data. He noted erosion and sedimentation controls and the project disturbance area is slightly over 5 acres which is subject to a DEEP general permit for construction. He provided cut and fill data for the property. He explained profile for the proposed roadway and the construction is generally balanced and same for stormwater detention basins. He noted there is no direct impacts to wetlands but 1-acre of upland review area impact. He explained the project has been designed in conformance with storm water manual by DEEP, the storm basins more than attenuate the peak flows after the development and negligible impact on the wetlands down gradient properties. James Sipperly, Soil Scientist, CT Wetlands Scientist, Environmental planner for City of Middletown, Wetland Agent for the Town of Portland, and IWWA Commission Member for Bozrah. Mr. Sipperly discussed his wetland report. Mr. Sipperly discussed flagged wetland areas, upland review areas and soil types. Mr. Sipperly noted Chatham Health approval. Mr. Sipperly explained the soils provide ground water recharge, discharge, sediment stabilization, nutrient removal, wildlife diversity and habitat. Mr. Sipperly discussed the sites vegetation, trees, shrubs. Mr. Sipperly explained he worked with Mr. Baltramaitis on erosion and sedimentation control plan and briefly discussed. Mr. Baltramaitis explained the detention basin in divide one was relocated away from wetlands soil. Mr. Sipperly explained the proposed development in upland review area will not disturb any wetlands in the watercourses on or adjacent to the site. Mr. Hill asked how far the last house extended from cul-de -sac to the Airline Trail as he is concerned with frog breeding ground near that location and watercourse. Mr. Sipperly asked for clarification of which pond. Mr. Hill described the location. Mr. Sipperly replied the flagged wetlands 1-32 in that area did not have standing water when he performed his delineation, and believes there is a diversity of wildlife that uses that area. Mr. Hill asked where that was in relation to the next house. Pat Gorman, replied 428' from the Airline Trail to lot 8. Mr. Hill expressed concern with lot 8 impacting wetlands and believes there should be a larger buffer. Mr. Baltramaitis explained lot 8 is 16-acres with 7 ¾ acres reserved as conservation easement, the lot has little grading and impact. Mr. Baltramaitis discussed possibly adding rain garden to the west. Mr. Sipperly discussed the topography on lot 8. Chairman Wilson asked for clarification on pocket on the site. Mr. Sipperly replied it is not a vernal pool and there is a large boulder located there. Chairman Wilson asked for clarification of flow pathway or stream. Mr. Sipperly replied during a heavy storm there may be a stream that

flows but there is not an intermittent watercourse. Mr. Hill explained in the spring the area near Airline Trail fills with water and expressed concern. Mr. Sipperly replied he would imagine pockets of standing water in the spring but at the time he visited the site there was no evidence of a deep pool area where wildlife would breed and lay eggs. Mr. Sipperly agreed that area would function as a vernal pool in the spring and noted the other side of the trail there is a large vernal pool. Chairman Wilson stated the concern with the upland review area habitat and adjacent and asked for clarification of upland review area on map and Mr. DeCarli replied 100'. Chairman Wilson asked for the percentage of development in the upland review area. Pat Gorman replied 2500sf of upland review area, 75ft of detention basin number two. Mr. Baltramaitis noted about one-acre of impact to upland review area. Chairman Wilson asked if the catch basin will be dry. Mr. Baltramaitis replied they will be dry but even dry catch basins remain wet and briefly discussed design and infiltration. Mr. Sipperly believed Mr. Baltramaitis recommendation for linear rain garden is a good idea and roof leaders could go into it. Mr. Baltramaitis further discussed adding roof leaders and driveway run off. Chairman Wilson asked if it is for lot 8 and Mr. Baltramaitis replied yes and provided the location. Vice-Chairman Kavalkovich asked if there was ledge there that would prevent construction. Mr. Baltramaitis replied there is in that area and he will need to work with what is available for soil and topography. Vice-Chairman Kavalkovich asked Mr. Hill if rain garden addresses his concern. Mr. Hill expressed concern with the extension of lot 8 and providing proper buffer. Mr. Johnson asked how close the house on lot 10 is to wetlands. Pat Gorman replied the house is 175' to the wetland. Mr. Sipperly recommended placing a covenant on the mylar being filed and along the conservation easement adding placards. Pat Gorman proposed adding an additional 50' of buffer around the wetland in addition to the proposed raingarden. Mr. Boule replied the setback should be a 100' buffer and Chairman Wilson agreed. Mr. Baltramaitis asked Mr. Gorman if 100' buffer is possible. Mr. Gorman replied they could if they did not have to revise the detention basin. Mr. Hill discussed the benefits for the detention basin if correctly designed. Mr. Baltramaitis briefly discussed detention basin design. Chairman Wilson agreed with proposed updates. Mr. Baltramaitis noted volumes are including in the calculations. Mr. Baltramaitis agreed to the 100' buffer and it adds another 1.5 acre to the conservation easement. Commission Members briefly discussed conditions. Mr. Baltramaitis asked if the Commission wanted the proposed rain garden on lot 8 and Mr. Hill replied yes. Mr. Hill asked if the road is private and Mr. DeCarli replied yes but there are ongoing discussions regarding it. Mr. Sipperly noted they agreed to stipulations by the Commission. Pat Gorman briefly discussed rain garden. Vice-Chairman Kavalkovich and Chairman Wilson discussed short form versus long form including site monitoring. Chairman Wilson asked what site monitoring is required by the State. Mr. Baltramaitis replied the State will require a general permit for construction activity due to 5-acre disturbance and believes the activity will be registered with the State and does not believe he will need to submit monitoring reports. Mr. Sipperly noted his report includes recommending regular inspections and after storm

events, and Commission can condition monthly E&S control reports. Pat Gorman discussed the detention basins will be installed first and immediately captured by down gradient swales then into the basins. Mr. Baltramaitis additionally noted the detention basins will act as sediment basins during construction. Vice-Chairman Kavalkovich made a motion to approve application IW-23-017: Flanders Road Estates, LLC, Flanders Road, Fifteen (15) Lot Subdivision with 46,400 square feet of disturbance in the Upland Review Area, (Home Acres Estates), Map 26/ Block 87/ Lot 6 using the standard short form permit. With the following conditions: include a rain garden to mitigate water runoff on lot 8 between the proposed house and barn, the design of which is to be reviewed and approved by Town Staff; include in the plans a conservation easement including 100' buffer surrounding the flagged wetlands number 1-32 with a deviation to allow for the current design of basin SWM2; and all conservation easements are to be clearly marked with placards designed and spaced as designated by Town Staff. For the following reasons: best management practices for stormwater runoff quality are included in the design, hydrology is maintained to keep water quality going to the wetlands for any given storm about the same before construction, and adequate conservation easements are in place to protect the wetlands beyond the 100' buffer. Mr. Wall seconded the motion. **Vote: 5-0-1 (Mr. Hill)**

8. New Applications: None.

9. Public Hearings: None.

10. New Business: None.

11. Old Business:

A. Annual Review of Bylaws. Commission Members discussed proposed changes to Bylaws. Chairman Wilson made a motion to approve revised Bylaws effective August 30, 2023. The motion was seconded by Vice-Chairman Kavalkovich. **Vote 6-0**

12. Public Comments: Mr. Boule stated he is retiring from the Commission. Commission Members thanked Mr. Boule for his service. Mr. DeCarli noted he ordered a plaque for Mr. Boule who has been on the Commission for 49 years. Commission Members noted Mr. DeCarli is leaving and thanked him for his work with the Commission.

13. Adjournment: Mr. Boule made a motion to adjourn at 8:41p.m., the motion was Seconded by Mr. Wall. The motion was unanimous in favor.

Respectfully submitted,

Cheryl Guiliano

Cheryl Guiliano, Recording Clerk