

TOWN OF SOMERS
Conservation Commission
600 Main Street



REGULAR MEETING
WEDNESDAY, APRIL 5, 2023
7:00 PM TOWN HALL
MINUTES

I. CALL TO ORDER--- Meeting called to order by Chairperson, Joan Formeister at 7:05 P. M. Commissioners in attendance were Vice Chairperson Drew Kukucka, Dan Fraro, Candace Aleks and Lise Wood. Also present, Joanna Shapiro, Town of Somers Wetlands Agent.
Chairman Joan Formeister seated Lise Wood for Sydney Flowers.

II. OLD BUSINESS –

Chairman Joan Formeister updated the Commission on the Scantic River Water Quality Monitoring Project being conducted by Dr. Kirstin Martin, and the town's support and efforts to provide funding for the testing materials.

III. NEW BUSINESS -

1. Application #787/Jurisdictional Ruling: 8 Turnpike Rd. Subdivision of land containing wetlands; no proposed work in Upland Review Area. D & S Developers, LLC.

Chairman Formeister recused herself from this application, as she is an abutter.

Agent Shapiro summarized the application for a proposed subdivision of land containing wetlands. She read from both the Somers Inland Wetlands and Watercourses Regulations and the Subdivision Regulations, which require that the applicant apply for a wetland permit for any subdivision of land containing wetlands or watercourses. She also read the section of CGS Section 8-26 submitted by the applicant, which also requires that an application be submitted to the wetland agency, and refers to a report that can be issued from the wetland agency to the planning agency with their decision. Agent Shapiro explained that the applicant technically submitted an application form, but specifically for a "Section 8-26 referral", not a wetland permit, and they maintain that they do not need or want a permit. Agent Shapiro explained that her interpretation of the town regulations would require that a wetland permit be obtained for subdivision of land containing wetlands. She explained that the permitting process would

have been very simple and easy, since there was no work proposed within the upland review area, but that there was a process to follow. She reported that she consulted with the Town Attorney, who understood the concern regarding the language of the regulations, but said that the Commission could make a determination if they have jurisdiction and whether a permit would be required, and that they could rule it exempt if they wanted to.

Jay Ussery represented the developer. Jay said the application he submitted is based on State of CT statute, and that they are requesting that the Commission write a memo to the Planning Commission that no wetland permit is required, as proposed work will be over 900 feet from the upland review area, and there is therefore no regulated activity proposed.

Commission members discussed the regulations, and their interpretation.

Drew Kukucka made a motion to deny the Jurisdictional Ruling, based on the language of the town wetland regulations, requiring a wetlands permit. Candace Aleks seconded. Motion Failed 2-2.

Dan Fraro made a motion that the application is exempt from needing a wetland permit. Lise Wood seconded. Motion Failed, 2-2.

Jay Ussery asked that a memo be submitted to Planning by the Commission.

2. Application # 788/Jurisdictional Ruling: 329/307 Billings Rd. Clearing wetland and converting to pasture. Fawn Hill, LLC.

John Gale, the owner and applicant, explained that he purchased an adjacent property and merged it with his existing property, now containing 33.98 acres, and now wants to clear cut a proposed 7.7 acre area for the purpose of creating a pasture for his horses to graze. He will be leaving some trees and stumps in some areas of the wetlands. He is a member of the Farm Bureau and consulted with the Bureau for advice on what to do and what not to do. He is not proposing work in the vernal pool area.

Agent Shapiro distributed both Farm Bureau and CT DEEP guidance on the agricultural exemptions from the wetland statute. Agent Shapiro explained that grazing itself is exempt, but that the creation of pasture within a wetland may not be, if it involves either filling in a wetland or clear-cutting for a purpose other than the expansion of crop land, and that the Commission should consider whether the grading proposed would constitute filling, and whether pasture is crop

land or not. She explained that portions of the proposal may be exempt, while others may require a separate wetland permit.

Lise Wood made the motion to vote on the application as “a use of right”.

Dan Fraro seconded.

The Commission discussed whether pasture would constitute crop land, and no consensus was reached. Drew Kukucka disagreed that clear cutting in a wetland to create pasture was exempt. Candace Aleks felt the term “grazing” was a permitted right, and that pasture is crop land.

Vote was 3/2. Motion carried.

3. **Application # 789:** 15 Sokol Rd. Clearing within the Upland Review Area, associated with construction of a new house. Glenn Hastie

Mike Mocko, environmental consultant, apologized to the Commission for the unapproved clearing of the lot that was done without his knowledge. There was a communication error upon all involved in the clearing. He had originally planned a 200 foot buffer zone by the wetlands and stream. Mr. Mocko discovered that the buffer zone had been breached once Wetland Agent Shapiro contacted him. As a result, he has submitted a new plan and application “after the fact”.

The new plan delineates the buffer zone and wetlands as not being disturbed, and shows where clearing occurred within the upland review area. Further disturbance or grading will NOT occur near the buffer zone so that it can regrow. The permit is for the “after the fact” unapproved clearing of trees and he assures that there will be NO further disturbance.

4. **Application 790:** 349 Mountain Road. Hydro-raking to control aquatic vegetation. SOLitude Lake Management.

Jeff Castellani from SOLitude Lake Management presented a plan for nuisance vegetation management. There are water lilies that have overgrown the pond. The large lily leaves spread over the pond surface and block the allowance of proper growing of diverse pond vegetation. The pond will soon become unmanageable.

The plan is to remove some of the lilies and their root systems by using a Hydro-rake. A Hydro-rake is a floating excavator which is used in ponds and lakes to rid the waterbody of invasive plants. It cleans and manages the pond/lake so that aquatic life can be sustained in a healthy ecosystem.

Protective mats will be placed around the pond edge to protect the soil while inserting the Hydro-rake. A fabric turbidity curtain will be placed to localize the management area and will act as a filter allowing clear water to flow through it.

Agent Shapiro asked how they will prevent invasive aquatic plants from entering the pond. Jeff Castellani explained their procedure for cleaning equipment.

At this point of the presentation, Attorney George Schober asked to speak to the Commission regarding this application. Att. Schober submitted a "Verified Petition To Intervene" on behalf of Kenneth J. Prior, who owns property at 364 Mountain Rd. across the road from 349 Mountain Rd. Mr. Prior is "concerned with the environmental integrity of resources including ground water, surface water, land and quality of life" which might be potentially affected by this proposed project.

As a resident and neighbor, Mr. Prior has concerns about the wildlife in the area and what potential impact the project might have on Gillette Brook (which runs through his property) and the Scantic River. Mr. Prior believes that a public hearing should be held for residents of Somers to hear about the proposed work.

Jeff Castellani further explained their process and protective measures for preventing sedimentation and turbidity within the receiving waters. He also explained how turbidity can be monitored during the project, which would only take 5 days per year for 3 years. He also explained how the removal of these plants would also remove organic matter and nutrients, which can improve water quality.

The Commission discussed whether to hold a public hearing on the application. Agent Shapiro read the definition of a significant impact activity for the Commission to consider. The Commission requested that SOLitude Lake Management submit a report from a biologist. There was additional discussion on whether herbicides would be used and whether there were any potential dangers, to include examples/case studies, and to include details on cleaning of equipment and other issues discussed. DEEP would be required to issue a permit for the use of herbicides.

The Commission felt that further discussion was needed for the next meeting in May and that more information would help to determine if this activity is significant, and if a Public Hearing would be necessary in June.

IV. AUDIENCE PARTICIPATION ----

None.

V. STAFF/COMMISSION REPORT---

Ms. Shapiro distributed and discussed the Wetland's Agent Report. Darcy Winter, liaison for DEEP has received a promotion and will no longer be a resource for the Commission. There will be a replacement for her.

Commissioner Lise Wood made a motion to accept the Wetland's Agent report.

Commissioner Aleks seconded. All were in Favor. Motion carried.

VI. CORRESPONDENCE AND BILLS---

Ms. Shapiro presented a bill from the Journal Inquirer for \$81.85.

Commissioner Aleks made a motion to pay the bill presented.

Commissioner Wood seconded. All in Favor. Motion carried.

VII. MINUTES APPROVAL: for March 1, 2023

Correction made, to specify that Lise Wood was seated for Candace Aleks.

Commissioner Aleks made the motion to accept the minutes with the correction.

Commissioner Wood seconded. All in Favor. Motion carried.

VIII. ADJOURNMENT

Commissioner Fraro made the motion to Adjourn.

Commissioner Kukucka seconded. All in Favor. Motion carried.

Meeting was adjourned at 9:55 P.M.

Respectfully Submitted,
Commissioner Candace Aleks, Secretary