

**TOWN OF SOMERS**  
**Conservation Commission**  
**600 Main Street**

**REGULAR MEETING**  
**WEDNESDAY, FEBRUARY 5, 2025**  
**7:00 PM TOWN HALL**  
**MINUTES - REVISED**

I. CALL TO ORDER

Chairperson Joan Formeister called the meeting to order at 7:04 P.M. Commissioners in attendance were Candace Aleks, Dan Fraro, Drew Kukucka, and alternate Lise Wood. Joanna Shapiro, the Town of Somers Wetlands Agent, was also present.

Chairperson Formeister seated Lise Wood for Sydney Flowers.

II. OLD BUSINESS

1. **SHOW CAUSE HEARING - ORDER TO CEASE VIOLATION (continued). 183 King Road.** Regulated activity within 100 feet of a wetland or watercourse. Nicholas Turnberg.

Wetland Agent Joanna Shapiro reported that Nicholas Turnberg was not present, he had recently communicated that he was unable to attend, but sent a revised plan and hoped that the matter could be resolved in his absence. Joanna presented the revised plan, which included the October 2024 aerial provided, and identified an area of future gravel.

Town Attorney Carl Landolina was present, and Drew Kukucka asked him to explain the process for closing out the Cease and Desist Order. Attorney Landolina explained that there are two options, a somewhat informal process by which the Commission would ask their staff to issue a letter to the property owner, explaining their findings, and that they are closing the file out. A more formal process is also possible, which would also list findings. He recommended that if closing out the order, we also remind the property owner that further consultation is needed if he will be working near wetlands.

Joanna mentioned that one outstanding item from the Order was the stabilization of soils, including the stockpiles, and asked if the Order should remain open until those are stabilized. Attorney Landolina responded that the Order can remain open in that case, and additionally, that the Commission can regulate areas outside of the upland review area if they determine that there may be an impact to wetlands.

The Commission and Attorney Landolina discussed options of modifying the order to include the piles outside of the upland review area, or releasing the order if the property owner applies for a permit for the piles.

Attorney Landolina suggested that Joanna contact the property owner to explain what was discussed, and that while there has been progress, the Commission is still concerned about the stockpiles, and that issue should be resolved before the order is closed out.

The Commission discussed the lack of a long-term plan for the property, including the fate of the soil stockpiles, which has caused concern.

Joanna stated that she was copied this afternoon on a letter from an abutter to the Board of Selectmen, which was largely focused on zoning issues. She provided the letter to Attorney Landolina to review, who thought it was appropriate to give just a general description to the Commission as she already had, as it was largely related to zoning concerns.

Candace Aleks suggested possibly resending the order to the landowner, and highlighting the section of the order related to stabilizing soils.

Drew Kukucka reviewed the plan, and asked about the delineation and areas of watercourse shown. Joanna explained that the delineation had been limited, but following the last meeting, she had asked the property owner and his surveyor to approximate the watercourse that runs adjacent to the southwest corner of the field, as well as to continue along the approximate bank of the stream and pond that cross through the former field, and extend the upland review area in relation to those additions, to connect the dots and close the gaps.

Drew Kukucka asked if Joanna would be able to revisit the site and focus on the watercourse within the wooded area, southwest of the field, to confirm its location and distance from activities, to determine what was done within the upland review area.

The Commission tabled discussion until the next meeting, leaving things that Joanna would contact the property owner regarding both revisiting the site to confirm the location of that watercourse, and also regarding the remaining stabilization requirement of the order. She will ask that the soils and stockpiles be temporarily stabilized, likely with hydroseed with mulch and tackifier, as soon as weather allows. Then, in the spring, Joanna could revisit to confirm that they are fully vegetated and permanently stabilized.

Lise made, and Drew seconded, a motion to reorder the agenda to move Application 811 to the bottom, to allow those in attendance to be heard first. Motion carried.

### III. NEW BUSINESS

1. **Jurisdictional Ruling/Application #812:** 122 Watchaug Road. Clearing and regrading farm drainage ditch to expand cropland, creation of farm pond of 3 acres or less within wetland, and clearing vegetation within stormwater pond and regrading surrounding area to expand crop land. Oakridge Dairy, LLC.

Seth Bahler from Oakridge Dairy was present. Wetland Agent Joanna Shapiro presented copies of a site map, with work areas indicated. Seth described the three items proposed on the property, as indicated in the application form and narrative provided. Seth explained that regrading the drainage ditch to smooth it out will maintain drainage while allowing them to drive over it and expand cropland; that the farm pond would improve drainage of adjacent fields and provide irrigation, and that eliminating the stormwater pond and directing flow to the swale would allow for more cropland.

Drew Kukucka expressed concern about elimination of the stormwater pond, as the Commission has previously discussed drainage issues on Watchaug Road, where in heavy rain, stormwater has overwhelmed the road drainage, and has backed up by the

resurfaced runway that bisects the field, and runoff has caused erosion of the field and sediment to travel down the road to Watchaug Brook. He wondered whether removal of the stormwater pond would exacerbate these issues.

Joanna explained that the plans also showed labels from NRCS, indicating if they deemed each field to be Wetland, Non-Wetland, Prior Converted, or Artificial Wetland. Oakridge had also provided documentation from NRCS further explaining their findings. Joanna explained that while the federal NRCS designations are based on the federal Army Corps wetland definition, and that the Prior Converted designation relates to rules of the Food Security Act that NRCS follows, allowing certain continuously farmed wetlands to remain farmland. While the designations differ somewhat from the CT Wetland Statute and definition of a wetland, we could glean quite a bit from it.

The Commission discussed the 3 projects, and Joanna went through them with regard to the farming exemption in the wetland statute. She explained that she visited the site last Thursday to inspect the areas proposed for work. She explained that the drainage ditch did not have a defined channel or banks for the most part, and did not seem to have continual flow, and that regrading the ditch likely would fit into the exemption. She also stated that a farm pond of under 3 acres was specifically referenced in the farming exemption, even within wetlands, but that excavated soils cannot be placed in wetlands, as that would be fill. Seth Bahler confirmed that spoils would be used on existing farm fields.

Joanna explained that the more complicated item was the stormwater pond, as it exhibits characteristics of a waterbody, and NRCS considers it an Artificial Wetland. The CT Wetland Statute considers artificial wetlands to be regulated resources, and filling them would not be exempt. It was not clear whether the pond was created as a stormwater pond or otherwise, but typically stormwater ponds are intended to be maintained. Drew Kukucka agreed that it appears to be a waterbody, and reiterated concerns about existing drainage issues related to runoff from the field. Seth Bahler expressed a willingness to compromise, and come to a solution that the Commission would be comfortable with. The Commission and Seth Bahler discussed the possibility of reshaping the stormwater pond rather than filling it, to avoid the issue of filling a waterbody while still allowing the farm to grow crops more efficiently. The pond could be reshaped so that it is longer and narrower, to allow easier row cropping, and it would lead into the existing roadside swale. The Commission discussed whether this is fitting with the application, and Joanna explained that the application was a bit vague related to the stormwater pond, and referenced grading the “surrounding area”, so we can likely proceed, and be specific in the motion that filling the stormwater pond is not exempt, but regrading is.

Joanna also explained that during her site visit with Oakridge staff, they had discussed using erosion controls to prevent sedimentation of adjacent wetlands, particularly at the end of the drainage ditch where there are wooded wetlands, and anywhere else that soils are disturbed. While activities may be exempt, sediment reaching wetlands would still be considered a violation, and every effort should be made to prevent impacts to wetlands.

Drew made, and Lise seconded, a motion to approve Application 812, 122 Watchaug Road, as an as-of-right farming use, specifically pertaining to the regrading of the clearing and regrading of the farm ditch, creation of a farm pond under 3 acres, and the clearing and reshaping of the stormwater pond and regrading the surrounding area. Motion carried.

2. **Jurisdictional Ruling/Application #813:** 39 Hurlburt Road. Piping farm drainage ditch to expand crop land. Oakridge Dairy, LLC.

Joanna also provided the NRCS mapping for this project, with work area indicated.

Seth Bahler explained that the hedgerow of trees and ditch on this property prevent efficient farming, so they'd like to remove the hedgerow and pipe the ditch. Joan and the Commission wondered whether piping the ditch will still preserve the function of the ditch. A solid pipe will allow runoff from adjacent properties to drain across, but won't take drainage from the adjacent field on either side. There was also concern about whether it would connect to the town drainage, which would require further consultation with the town. Seth Bahler called David Moser on the phone, who clarified that the pipe would not connect to town drainage, but would instead end at an existing drainage basin. The Commission questioned whether this was in their jurisdiction, and whether the drainage ditch would meet the definition of a watercourse. Joanna explained that upgradient, beyond the farm road crossing, there is no channel. The Commission determined that this work is not in their jurisdiction.

Candace made, and Lise seconded, a motion that jurisdictional ruling/Application 813 is not a regulated activity and therefore not within the jurisdiction of the Somers Conservation Commission. Motion carried.

3. **Jurisdictional Ruling/Application #811:** 183 King Road. Selective timber harvest within Wetland, with temporary stream crossing. Nicholas Turnberg.

Applicant and forester were not present, further information requested by Joanna was not provided; item tabled.

#### IV. AUDIENCE PARTICIPATION

N/A, no audience in attendance

#### V. STAFF REPORT

Wetland Agent Joanna Shapiro reported:

1. There is a pending town project to construct a solar array on the former landfill on Egypt Road. There are limited wetlands in the vicinity, so a wetland permit will likely come before the Commission soon.
2. A prior subdivision at 109/119 Turnpike Road created one new lot, back in 2015, but the house was never built. While the original wetland permit stated that it would expire after 5 years in 2020, it was associated with a subdivision, and should have been a 10-year permit, expiring in 2025. Since the legislature extended wetland permits that were issued between July 1 2011-June 10 2021 that had not expired as of March 10 2020, automatically making them 14 year permits, this permit is likely still valid until 2029.
3. Received an inquiry regarding a possible addition at 40 Lindell, which would be within the upland review area. Explained the permitting process to the property owner.
4. There have been multiple inquiries about 735 Main Street, a boarding house is up for sale, and interested buyers have wondered about how the property can be used, and if it can be subdivided. The zoning is complicated, but there are also a pond and stream on the property, and wetland permitting would be needed as well.

Drew made, and Candy seconded, a motion to approve the staff report. Motion carried.

VI. CORRESPONDENCE AND BILLS

Sydney Flowers had forwarded an email from the CT River Conservancy regarding the Scantic River Watershed Based Plan. They are looking for volunteer water quality monitors to sample in town. The Commission wondered if members of the high school Somers Stream Team would be interested, or possibly scouts. Joan will ask Dr. Martin if teenagers are allowed to sample.

Joanna also reminded the commission that as the planning effort begins, there will be meetings, and they are looking for a representative from each watershed town.

Joanna reminded the Commission that the Connecticut Association of Wetland Scientists (CAWS) annual meeting will be held on March 5, and also the Connecticut Land Conservation Council (CLCC) conference will be held on Saturday March 22.

VII. MINUTES APPROVAL: January 8, 2025

Lise Wood made, and Dan Fraro seconded, a motion to approve the minutes as written. Motion carried.

VIII. ADJOURNMENT

Lise Wood made, and Dan Fraro seconded, a motion to adjourn the meeting. All were in favor, and the motion carried. The meeting was adjourned at 8:45p.m.

Respectfully Submitted, Joanna Shapiro, Wetland Agent

MINUTES ARE NOT OFFICIAL UNTIL APPROVED AT A SUBSEQUENT MEETING