

**TOWN OF MONTVILLE  
INLAND WETLANDS COMMISSION  
310 NORWICH NEW LONDON TPKE  
UNCASVILLE CT 06382  
PHONE (860) 848-8549 – FAX (860) 848-2354**

**Minutes of Meeting**

**7:00pm**

**April 16, 2009**

Location: Montville Town Hall, *Council Chambers*

- 1. Call to order:** Chairman Brush called meeting to order at 7:00pm.
- 2. Roll Call:** A quorum was present. Present were Commissioners Bartholomew, O'Bday, Brush, Taylor and Riske. Staff present was Colleen Bezanson Inland Wetland Agent/Planner II. Absent was Commissioner Whittaker. Commissioner Johnson arrived later see below.
- 3. Minutes:**
  - a. Approve minutes of Meeting March 19, 2009. Ms. Bezanson stated that Commissioner Johnson requested on item 7a that the reasons for approval were left out of minutes. Reasons for approval should read: Commission noticed no regulated activities proposed at this time and the applicant states that there is sufficient access to the property east of the drainage right of way on Richard Brown Dr. **Motion to approve** as amended by Commissioner O'Bday, seconded by Commissioner Riske. **4-0-1 favor**, Commissioner Taylor abstained, **Motion carried.**
- 4. Public Hearings:** none
- 5. Show Cause Hearings:**
  - a. **Thomas Sanders:** An application for work within a regulated area on the property located at 87E Cottage Rd, Montville CT. As shown on Assessor's Map 63 Lot 5.  
Ms. Bezanson reviewed staff report. Ms. Bezanson stated that Mrs. Johnson wanted it clarified that at the February meeting that neither herself or Mr. Johnson had asked for a continuance at the January meeting. At that time an extension was granted to move to March meeting by the applicant. Ms. Bezanson read a letter from Shipman & Goodman dated March 19, 2009 into record.  
Ms. Bezanson entered into record a written statement from Commissioners O'Bday and Bartholomew stating that Commissioner O'Bday had listened to the recording and reviewed file materials for the Inland Wetlands meeting on February 19, 2009 and December 18, 2008. Commissioner Bartholomew listened to recording from March 18, 2009.

Chairman Brush gave summary stating Mr. Sanders had deposited a significant amount of material in a regulated area which requires a permit. However he stated that Commission hadn't seen any adverse impact to the wetlands itself. The question was asked of the Town Attorney that if there was no adverse impact to the wetland then the other issues were not in Commission's jurisdiction. There was no watercourse shown on the map therefore it is not an adverse impact to the wetland and the jurisdiction was only on the amount of fill that was used in the area. Mrs. Johnson spoke in opposition to the application and is concerned with amount of water coming down the hill and the fill has caused the property to flood and is an obstruction of the watercourse. She also stated for the record that it was one year ago that the violation by Mr. Sanders took place. Mr. Johnson also spoke in opposition and indicated that they have submitted pictures of the area from various years, information indicating that the topography had been changed over the years and that Mr. Sanders has removed a pipe from the area. In addition, he indicated there is not a defined watercourse present because it is hardpan, however the water flow went from highland to low land and that has been blocked off diverting the watercourse. Discussion was held. Attorney William McCoy spoke on behalf of the applicant for the record stating the Commission's attorney had given opinion in respect to the Commission's jurisdiction and the impact to wetlands and watercourses. He stated there is no watercourse, a watercourse has to be either intermittent or a constant stream, and that there was no watercourse. Mr. Johnson spoke again in opposition. Commissioner O'Bday inquired why something couldn't be worked out between the two parties. Mrs. Johnson spoke in response explaining the prior conversations that had taken place between Mr. Johnson and Mr. Sanders regarding the pipe.

**Motion** : This Commission has evaluated the environmental impact of the placement of material within the limits of the driveway on the property located at 87E Cottage Rd on wetland and watercourses resources both on the property and those that are in proximity to the subject parcel. After evaluating such impacts, the Commission finds that the activities proposed in this application are not reasonably likely to unreasonably impair, pollute or destroy wetland and watercourse resources within the jurisdiction of this Commission. Reason: From everything we've seen there isn't evidence of a watercourse and the wetlands that are actually upland from this filling do not seem to be impacted. **Motion** by Commissioner Taylor, seconded by Commissioner Bartholomew, **5-0 favor, motion carried.**

**Motion:** After giving due consideration to all relevant factors including those in Section 10 and or Section 4 of the Montville Inland Wetland Regulation and Section 22a-41 of the Connecticut General Statutes, I move to approve application 208 IWC 33 **Thomas Sanders:** Application for work within a regulated area on the property located at 87E Cottage Rd, Montville, CT. As shown on Assessor's Map 63 Lot 5 as depicted on the plan titled "Plan Showing Limits of Driveway maintenance within Upland Review Area Property of and Easement Appurtenant to Thomas E. Sanders 87E Cottage Rd, Oakdale, CT. Scale 1"=20' Prepared by Harry B. Heller." And the application and narrative dated December 8, 2008. Standard Reasons for Approval: 1. The environmental impact of the proposed project does not have a significant effect on the inland wetland's and watercourse's capacity to support fish and wildlife, to prevent flooding, to supply and protect surface and groundwater, to control sediment, to facilitate drainage, to control pollution, to support recreational activities, and to promote public health and safety. 2. The Commission has determined that the relationship between the short-term uses of the environment and the maintenance and enhancement of long-term productivity will have no impact on the surrounding wetland system. 3. The proposed activity will not have irreversible and irretrievable commitments of resources. 4. The proposed project will not change the character and or add degree of injury to, or interference with, safety, health, or the reasonable use of property, including abutting or downstream property. 5. The proposed activity use is suitable to the area. 6. The applicant has taken all feasible measures to mitigate the impact of any aspect of the proposed regulated activity. **Motion to approve** by Commissioner Taylor, Seconded by Commissioner Bartholomew. **5-0 favor, motion carried.**

**Motion** lift the Cease and Desist Order on the property located at 87E Cottage Rd, Assessor's Map 63 Lot 5. Reasons for lifting Cease and Desist Order: The applicant has done as requested and applied for and has been approved for the work that was completed on the property, was made by Commissioner Taylor, Seconded by Commissioner O'Bday. **5-0 favor, motion carried.**

\*Commissioner Johnson arrived at 7:35pm.

- b. **May Realty:** An application for repairs completed on the property located at 711 Route 163, Montville CT. As shown on Assessor's Map 38 Lot 53.

Ms. Bezanson read the staff report. Tom Fenton, Town Engineer read into record a letter dated April 9, 2009 with his recommendations for a plan of action for the applicant. Recommendations were that a professional engineer or wetland

scientist design a plan for restoration and a timeline on which the work would be done. Also noted that DEP would likely need to see the plan. Commissioner Taylor asked Mr. Fenton if he had recommendation for who should do the work. He stated he could give the owners a list of qualified people. Discussion was held.

Commissioner Johnson expressed concern as to if there would be a danger in waiting for a plan. David Yoselevsky from May Realty stated that he wanted Commission to consider that any work done to correct would be disturbance and to consider letting nature take its course and do no further work. Discussion was held.

Commissioner Brush stated that Commission needs an application for a permit and a detailed plan for work done.

**Motion to continue** by Commissioner O'Bday, seconded by Commissioner Taylor. **6-0 favor, motion carried.**

- c. **Andrew Petrowski:** Work within a regulated area without a permit on the property located at 37 Cove Rd, Uncasville CT. As shown on Assessor's Map 75 Lot 7.

Ms. Bezanson explained staff had correspondence with Ms. Lambert from DEP and Jim Bernardo, property owner's engineer. DEP had requested a soil test be done of the area to determine what kind of soils were on the property. Ms. Bezanson received a letter from Richard Snarski that day stating that he delineated wetlands boundary on 37 Cove Rd and that there are no inland wetland soils or flood soils present on the land, it was all Tidal. So he believes that this falls under the State's jurisdiction not the Inland Wetland Commission.

Discussion was held. Commission indicated that they would need confirmation from the DEP regarding jurisdiction before they could lift the Cease and Desist Order.

**Motion to continue** by Commissioner Taylor, seconded by Commissioner Riske. **6-0 favor, motion carried.**

- d. **Richard Franklin Jr.:** Activity within a wetland area without a permit on the property located at 295 Old Colchester Rd, Uncasville CT. As show on Assessor's Map 9 Lot 19B.

Ms. Bezanson explained that the area was at the rear of property where there had previously been no proposed activity when before Commission for Subdivision Review. Staff re-viewed property on March 31, 2009 and noticed trees had been removed and there was evidence of vehicle tracks in the area. There also appeared to be a small dam. She stated the owner, Mr. Franklin Jr., had indicated he wanted to change the direction of stream and remove the trees to gain access to the back portion of the property. Staff advised Mr. Franklin that the activities that had been done were in violation of the Wetland Regulations and that he would be receiving a Cease & Desist order. Discussion was held. Mr. Franklin spoke explaining

that he had done the work with the intention of gaining access on the other side of stream to build an ATV track. Discussion was held. **Motion to set site walk** for May 13, 2009 at 6:00 pm **and continue to the May meeting** Commissioner Johnson, seconded by Commissioner Taylor. **6-0 favor, motion carried.**

**6. Remarks from the public relating to items on the agenda:** none.

**7. Old Business:**

a. **John Diamantini:** An application for the construction of a dock on the property located at 1399 Old Colchester Rd, Montville CT. Assessor's Map 44 Lot 4-3.

Ms. Bezanson stated Mr. Diamantini would not be present as he is on vacation and that Timothy May would be representing him. She explained the Commission asked that a detailed plan on the dock request be submitted as well as a letter from a soil scientist regarding the effects on the propellers in the lake bottom in this area. Ms. Bezanson read a letter into record dated April 8, 2009 from Michael Schaefer, professional soil scientist. Discussion was held along with Timothy May. Ms. Bezanson stated will be sending a letter to the applicant stating that Commissioner Brush indicated that the question was not answered for this specific area by the soil scientist. A more definite question is what is making use of the bottom topography of the area. An example would be spawning areas, breeding areas, migration paths and will the impact of boats have or not have in this particular area.

Commissioner Brush added to that, What species are making use of that area and what impact from the proposed boating operations be on those species. Mr. May submitted a letter requesting an extension to next month's meeting. **Motion to continue** by Commissioner Taylor, seconded by Commissioner Riske. **6-0 favor, motion carried.**

**8. New Business:**

a. **Gabriel & Nancy De La Cruz Jr.:** An application for the construction of a deck, pool and addition on the property located at 21 Sharp Hill Rd, Montville CT. As shown on Assessor's Map 23 Lot 67.

Ms. Bezanson explained that the applicant originally came in for an addition to the house. When the survey plan came in, it was noticed there was a pool and deck on back portion of the house. It was later determined that no Town Permits had ever been obtained for the deck or pool. So application is for the addition but also for existing pool and deck. Proposed activities are within 5 to 20 ft. from the brook. Applicant's engineer, Steve Marien spoke in regards to the proposed activity. Discussion was held. **Motion to set site walk** for May 13, 2009 at 6:30pm and **continue** to next meeting by

Commissioner Bartholomew, seconded by Commissioner O'Bday. **6-0 favor, motion carried.**

- b. **Town of Montville:** An application for the construction of a beach volleyball court on the property located at Camp Oakdale – 75 Oxoboxo Dam Rd, Montville CT. As shown on Assessor's Map 46 Lot 1.

Ms. Bezanson explained where proposed area was located on property. She stated that Public Works requested 2 courts and was only going to build one and see how it works. Town Engineer explained the plans. Discussion was held.

**Motion to continue** by Commissioner Taylor, seconded by Commissioner Johnson. **6-0 favor, motion carried.**

- c. **Town of Montville:** Drainage work within a regulated area on Fielding Drive.

Town Engineer reviewed the plans located on Fielding Dr. He stated that in 2006 there were drainage improvements proposed and approved. Part was to be done by the owner and part was to be done by the Town. He stated on the Town part, the existing pipe had deteriorated. Town is requesting replacing 2 pipes that had deteriorated. Discussion was held.

After giving due consideration to all relevant factors including those in Section 10 and or Section 4 of the Montville Inland Wetland Regulation and Section 22a-41 of the Connecticut General Statutes, and to the evidence presented and to the Commission's knowledge of the property and area, I move to approve modification to application 206 IWC 23

**Town of Montville:** An application for drainage work within Fielding Drive as shown on the plan titled "Fielding Drive Drainage Improvement Phase 1 and Phase 2 Site Plan. Prepared by Nathan L. Jacobson & Associates, Inc 86 Main Street P.O. Box 337 Chester, Ct. dated 4/2/09 and the application and narrative dated 4/8/09

**Motion to approve** by Commissioner Taylor, seconded by Commissioner O'Bday. **6-0 favor, motion carried.**

9. **Commissioner's Comments:** none.

10. **Correspondence:** Ms. Bezanson handed out Connecticut Land Use Academy Class offering.

11. **Other Business:** none.

**Motion to adjourn** at 10:00pm by Commissioner Taylor, seconded by Commissioner O'Bday. **6-0 favor, motion carried.**

Respectfully submitted,

Pamela Church, recording secretary

\*For a complete record, refer to audio recording.