

March 26, 2024



TOWN OF OXFORD
S.B. Church Memorial Town Hall
486 Oxford Road, Oxford, Connecticut
06478-1298

Conservation Commission / Inland Wetlands Agency

REGULAR MEETING MINUTES

Tuesday, March 26, 2024

The **Regular Meeting** of the Oxford Conservation Commission/Inland Wetlands Agency was held **Tuesday, March 26, 2024** Regular Meeting Members of the public can meet at the S.B. Church Memorial Town Hall, 486 Oxford Rd, Oxford, Connecticut 06478 and held in Room B.

Meeting was called to order at 7:30 P.M. by Chairwoman Susan P. Gibbons

PLEDGE OF ALLEGIANCE:

ATTENDANCE ROLL CALL:

COMMISSIONERS PRESENT: Chairman Susan P. Gibbons and Commission Members Brian Smith, Andrew Ferrillo, Ethan Stewart

STAFF: Administrative Assistant Denise Randall & IW Enforcement Officer Mike Herde and Attorney Kevin McSherry and Town Engineer Jim Galligan

ABSENT: Commissioner Joe Lanier

AUDIENCE OF CITIZENS (NOT FOR PENDING APPLICATIONS):

Chairman Gibbons stated: At this point we can move into audience of citizens for applications not pending.

Ms. Kacey Green asked: I have a question. On our property we have wetlands and I would like to put millings on my wetlands and go down all of Moose Hill Road. Is that feasible?

Chairman Sue P. Gibbons replied: I do not really know anything about your property.

Commissioner Ethan Stewart replied: You cannot just put millings in a wetland.

Mr. Jerome Baity asked: What happens if I just do it?

Commissioner Brian Smith replied: Then we do a cease & restore and you have to pay to get it fixed.

Ms. Kacey Green asked: And how long is the process?

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Commissioner Brian Smith replied: It depends on how much work is involved to fix it.

Town engineer Jim Galligan added: Normally its like 30 days.

Ms. Kacey Green stated: Considering I now have oil in the wetlands, I would like to know and I know it took awhile for a cease & desist order to be put in place.

Commissioner Brian Smith asked: Can you please state your name and address for the record please?

My name is Kacey Green and this is Jerome Baity and the address is 40 Bee Mt. Road.

Commissioner Brian Smith stated: Thank you.

Ms. Green stated: They put in a pipe and millings and now it is leaching into the wetlands. I am very frustrated. I know they are all about keeping the wetlands green and keeping the town green. Now everything they are doing is preventing the wetlands from taking a natural course because now they are re-directing the water and the water goes into the lake and now it is contaminating more areas of Oxford.

Chairman Gibbons asked what lake?

Ms. Green replied: Swan Lake.

Mr. Baity stated: I am also worried about the oil getting into my well.

Ms. Green stated: On one of my photos, it shows the millings and the bridge is about 15 feet you can see oil patches on my property.

Chairman Gibbons asked if enforcement has been out.

Ms. Green replied: Yes, they have already been out there. All we have seen so far is a cease & desist and a silt fence.

Chairman Sue Gibbons stated: Ok. Thank you and we will move on from here.

Mr. Victor Antunes stated: (5 Crozier Court) I am here to voice my frustration. About 3 years ago I was trying to fix an issue on my property and 2 of you showed up and told me I needed to fix this and I had to spend thousands to do it. I did fix it and then it gave out again in that same area. I contacted everyone at town hall and got now response. In October of last year, you guys had gotten a letter to say that it was not my responsibility and it was your responsibility for the drainage and no one notified me of this. Since then, I have started to fix the issue. But I was annoyed that I was given 30 days to fix this and you guys had a letter since October and no one notified me. No one did anything for a year.

Commissioner Smith stated: From what I recall is that a neighbor had called to complain and we were at that time online due to covid and I know that you stated you had some financial hardship and you just had a newborn and I do remember a discussion of being flexible with the timing.

Enf. Officer Herde added: He was giving a rough restoration for 30 days and to give him time for a final restoration.

Secretary Denise Randall stated: This was all during covid remember.

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Mr. Antunes stated: I was told I needed 2 trees and a couple of bushes and was given a week or 2 and Mr. Herde came by and said that it looked skimpy and I needed to do more. So again, all in all it was \$25,000 out the door. I then when I had an issue on that same portion, you told me I could not cut the grass because the nitrogen would impact the trees.

Enf. Officer replied: Yes, I said to stay away from the pond.

Mr. Antunes replied: Right, a year of street garbage that included bottles, cigarettes and condoms and no one cared, no one did a thing.

Enf. Officer replied: There was a discrepancy with AT&T as to who was responsible and it was back and forth with the selectman and the town engineer.

Mr. Antunes stated: And that letter never went to me or the neighbors who were also impacted by this. Again, If I remember correctly, you told you intentionally tilted the water so that half would go down the embankment and the other half would go down the hill.

Enf. Officer Herde replied: Not half. AT&T was told to not dry up the wetland. As the wetland went across as well.

Mr. Antunes then stated: So again, your so concerned about this and yet another year and nothing. That is my frustration. Mr. Jerome Baity is here and you are going thru a similar issue and yet you guys are not as speedy to have his property fixed as I was and I just came here to voice my issues.

Chairman Sue P. Gibbons stated: Ok, Thank you. Is there anymore audience of citizens present?

None.

Chairman Gibbons asked who was here from 25 Fiddlehead under violations.

Mr. Yarosh (25 Fiddlehead Rd) stated he is present.

The Chairman asked the Enf. Officer to explain what the violation is.

Enf. Officer Herde stated: Mr. Yarosh stated that he had done some work near the lake and thought he only needed permission from First Light. I explained that he did need a wetland's permit to work in the lake. It is an area where the Commission does allow work to be done on the waterfront for enhancement. I told him to come in and the commission would entertain an application now at this point.

Mr. Yarosh showed pictures of a deck, stairs and a trail leading to the waterfront. There was no tree cutting involved.

Enf. Officer Herde stated: The only thing I saw was a boat ramp. So, if you can put in an application and give us a plan.

Chairman Gibbons added: Yes, and we may do a site walk. At this point, you can come in and fill out an application and give us a plan and we can go from there.

Mr. Yarosh replied: Ok, thank you and exited the meeting.

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The Chairman asked for the Enf. Officer's input regarding "show cause hearing" for property located at Old Moose Hill Road. Mr. & Mrs. Carver were present at the meeting.

Enf. Officer Herde stated: First I received a call from Mr. Baity and he wanted me to come out and take a look at his property located on 40 Bee Mountain as his concerns about a driveway through a wetland. I also spoke to Mr. Carver to get both sides. When I saw the issue, there was no question about it, there was a driveway thru a wetland. I told Mr. Baity to let me talk to Mr. Carver so we can see how to resolve this. I ended up meeting with Mr. Carver out at the site. Mr. Carver said he fixed an existing crossing and repaired an existing pipe and that he was just fixing something already there. There was clearly a trail on the other side. So, I asked Mr. Carver if he had any evidence that there was something there before and it would have been nice if you came into the office first. Now we are perplexed as to is it an existing driveway into the property or is it brand new. I then gave him a verbal cease & desist to come to the next meeting but unfortunately, we did not have the meeting due to lack of quorum. In between, Mr. Baity came into the office insisting that something be done sooner. I spoke to the First Selectman about it and explained that we normally do a verbal cease & desist order and then a notice of violation and then a full cease & desist order until we determine if there is a really was some activity and now it is up to the commission to determine whether there was some activity but now we went into a cease & desist and its really up to the commission as to determine whether there was a driveway, whether it was a crossing, is this entirely new and is there a restoration needed. So, I also called back to Mr. Carver to let him know it looks like an oil coming up out of the ground. I do not know if it was something added along the way or someone changed their oil in the woods, there is a lot of small little garbage dumps in the woods there. So, I advise Mr. Carver to contact an environmental company, specifically someone who deals with hydrocarbons. Let us get the ball rolling on having it tested to find out what it is, how to remove it and if necessary, come up with a restoration plan and removal of all the crush millings there.

The Enforcement Officer passed out photos of the property that he took.

Enf. Officer stated: The area where the oil is, does not look disturbed but it is immediately down hill from the driveway.

Chairman Gibbons stated: Commissioner Lanier was not present but he sent an email about a site walk that he did and it states:

Hi Denise,

I would like this presented to the Commission on Tuesday, March 26th. I am unable to attend the meeting. I walked the site on Wednesday March 20th between 2pm and 3 pm. After observing the area of concern and surrounding areas, I find it necessary to consult with a professional scientist regarding activity taking place in the regulated area. In my opinion, wetlands were filled in making a crossing to the other side for assessing a potential house lot. I observed a pink wetland flag lining the wetland by a wetland scientist. As seen on the attached photos, the access road was built through the wetland. I recommend a plan is developed for removing fill / non-native material materials and assessing whether a planting plan is necessary for reestablishing the wetland. I did also observe an area with discoloration, appearing orange in color. It should be determined if this orange coloration is naturally occurring through leaching of minerals or human induced from materials of old dumping site. This dumping site appears to be decades old from previous owners.

*Thank You,
Joe Lanier*

The Chairman also included photos that Mr. Lanier attached which was shown to the commission.

Enf. Officer Herde stated: For the record, my first meeting with Mr. Baity was on March 11th and the 12th and on March 18th I hand delivered a cease-and-desist which Mr. Carver signed. In between, were

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the cancelled wetlands meeting and that is why we are meeting tonight and this is a show cause meeting.

Mr. Ed Carver stated: My background in degrees is that I have a bachelors of science marine biology and a Masters in Chemistry and have an MBA from Sacred Heart. I moved into Oxford since 1983. The property we recently built on Moose Hill was 15 years ago. We improved the road coming into our house with millings and it is from Old Moose Hill to Moose Hill. I knew Mr. Lavorgna and knew each other very well but looked at the property in 1999 but did not agree on a price. In 2018, he came to me and wanted to sell the property to us with the 26 acres and we bought the property. We used it for recreational use only. We decided we would improve the road going in to be able to get ATV's or snow mobiles going in. We used the old road; I widened it and I did bring in millings from Rte 42 extension. From my previous experience, putting in material to hardened it was an ordinance. I thought that sealing was also. There was an old pipe, maybe cast iron. The property is about 100 years old so I am not quite sure. It was owned originally by the brass company and it was logged. I always try to improve things. The section that is in question is the wetland crossing and I did replace the pipe which was disintegrated, I did bring in material. We log it and we use the timber for our fireplace. So, my intent was only to improve. Recently our daughter is looking to build. When Mike came to see me, he asked me to put up a silt fence. We have not been doing work in about 2 years. No materials have come in so this is not ongoing. I saw Mike question a spot and my believe is that you get this an it may be iron. In my opinion, I do not think it is oil. I have the soil testing company a call and I am waiting on this to be sampled. The area is in ledge where the newer pipe was placed. I think it is 36" and my intent was for these big storms we have had lately, be able to handle the water.

Commissioner Brian Smith asked when the pipe was replaced.

Mr. Carver replied: I do not recall for certain but I think it was 3 years ago.

Commissioner Ferrillo asked: Is Old Moose considered a paper road in town.

Mrs. Tanya Carver replied: The town abandoned it in 2018 it became a private road. I have a copy of this information, here is a copy all the way down.

Copies were made for the commission for the record.

Mr. Jerome Baity stated: I talked to the Town Clerk and it is on the deed that the town still owns it and the road is not abandoned. We can both get attorneys and figure this out.

Kasey Baity stated: My concern is the wetlands issue. I am not concerned about the road.

Commissioner Ethan Stewart asked: When were the millings placed?

Mr. Carver responded: 3 years ago.

Commissioner Ethan Stewart asked when the wetlands were flagged?

Mr. Carver replied: Within the last year.

Commissioner Stewart asked: So then does the map clearly show the wetland lines?

Mr. Carver replied: Yes.

Mr. Baity stated: That road did not have those 2 driveways at that point. It was just the millings. I actually had to back my hummer up to get back up. That pipe and those 2 roads, Dale Earnhardt Road

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and Tanya and Ed Carver Road, did not exist in October of last year. I already looked it up online. The roads popped up after.

Commissioner Stewart stated: Well, we cannot have millings in the wetlands. We don't let people put millings in a conservation easement.

Mr. Baity asked: Why did not they get a permit; they should have known better.

Commissioner Brian Smith stated: Listen. I know your upset but if we can stop and understand what is going on, its not conductive.

Chairman Gibbons stated: We are making some progress in a sense that the Carvers are in the process of testing the oil spill and we have dates, pictures, and some paperwork. We just have to move forward with this.

Commissioner Smith stated: It sounds like the big discrepancy is when the millings were placed in and the timing of that. So, we need to do some research on this.

Enf. Officer Herde stated: I tried to look up some information on the ariels but really haven't found anything. I checked the ariels going back several years and I just have not found it online. My question to the Carvers, do you have anything that shows that old driveway was there?

Mr. Carver replied: Mike, we would have to look. We built our house and then a barn. We were pretty busy.

Commissioner Ferrillo stated: We have nothing in our files that shows any of that there and so I think we need to start with some type of restoration at this point.

Enf. Officer Herde stated: I think the Carvers surveyor, whom I met out in the field with and he just showed a perimeter survey but no entrances. He actually surveyed it before the Carvers bought it.

Mr. Carver asked about who a contact person can be for a restoration plan.

A small discussion ensued on this.

Planning and zoning officer asked Mr. Carver: Do you remember who brought the millings in and what state job it was? Do you remember what year it was?

Mr. Carver replied: I believe it was the Rte 42, a state project. I believe about 3 years ago. I talked to the Beacon Falls state and I met with him.

The Chairman stated: we will need a cease and restore order.

Mrs. Carver asked: We had back in the end of November a meeting with land use and if your thinking of moving that driveway, we are going to need something there.

Commissioner Ferrillo stated: We will need to take care of the violation first before you can proceed.

P&Z Enf. Officer added: From zoning, I need a full house plan, perks, permission from wetlands. You can just cut a driveway or cut a tree down without getting an approved zoning application. The meeting you had was to split the lot, not the building of a home yet. Its an easy fix.

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Mr. Carver stated: I just want to make clear on the record that there was a pipe there, I did put additional material and a larger pipe in but it was a repair. It was pre-existing and I believe I have the right to do this.

Ms. Kacey Green and Jerome Baity (owners of 40 Bee Mountain Rd) were present and asked: If I may ask, what did you do with the old pipe?

The Chairman stated: Everything asked, must go thru me please.

Ms. Green stated: ok. Mike had said they dumped it at the dump but we actually called there and they said there was no pipe dropped off.

Chairman stated: Ok, I am not sure where the pipe was discarded but.

Commissioner B. Smith stated: At the end of the day, we are looking for a cease and restore.

Ms. Green: What I want to be clear about it should have been restored to its natural state.

Commissioner Ferrillo stated: There is no record of the pipe being there. Maybe it was, maybe it wasn't but the law requires us to move it.

Attorney McSherry stated: A restoration plan will be submitted; the Commission then has to be satisfied with it. If it is not satisfactory then the commission can ask for more. I think maybe more information can be found from Mr. and Mrs. Carver and all parties. That is part of the information that will be helpful.

Chairman Gibbons added: We also have to come up with a timeline.

Commissioner Smith stated: Well, I think we need to find out what the orange material is to come up with the correct restoration plan right. Especially if it is from some sort of hydrocarbon.

Mrs. Carver added: I would like to state for the record there will be no more trespassing on our property as well.

The Commission discussed a timeline.

MOTION made by Commissioner Brian Smith and seconded by Commissioner Andy Ferrillo voted at its regular meeting for a cease and restore order with the following:

- 1) Present a restoration plan on or before 30 days from tonight.
 - 2) Findings from a soil analysis before the April 23rd regular meeting.
- All in favor 4-0.

AMENDMENT TO AGENDA:

EXECUTIVE SESSION:

MOTION to amend the agenda to go into executive session for discussion on litigation on real estate matters in particular Cornerstone Church made by Commissioner Andy Ferrillo and seconded by Commissioner Brian Smith. All in favor voted 4-0.

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MOTION to go into executive session with the Commission and to include staff with Mike Herde, Denise Randall, Attorney McSherry and Town Engineer Jim Galligan at 8:01 pm. Seconded by Commissioner Brian Smith. All in favor voted 4-0.

MOTION made by Commissioner Andrew Ferrillo and seconded by Commissioner Ethan Stewart to come out of executive session at 8:08 pm. All in favor voted 4-0.

MOTION made by **Commissioner Brian Smith** and seconded by **Commissioner Andy Ferrillo** that the Inland Wetlands Commission authorizes Attorney Kevin H. McSherry to enter the stipulation for judgement in regards to the (IW 21-10) Cornerstone Church application on behalf as presented and discussed with the commission in executive session and in accordance with the plan submitted by the applicant dated March 23, 2024. Voted all in favor 4-0.

PRE-APPLICATION: None

NEW BUSINESS:

OLD BUSINESS:

RE-APPLICATION:

NEW APPLICATIONS REQUIRING OCCIWA APPROVAL (ACCEPTANCE):

CORRESPONDENCE:

ACCEPTANCE OF MINUTES & AMMENDMENTS/CORRECTIONS TO MINUTES (IF ANY)

MOTION to accept the February 27, 2024 minutes by **Commissioner Andrew Ferrillo** and seconded by **Commissioner Brian Smith**. All in favor 4-0.

ENFORCEMENT OFFICER:

COMPLAINT/CONCERN:

REPORTS ON SEMINARS, INSPECTIONS, and OTHER MEETINGS SCHEDULED OR ATTENDED NEWSPAPER ITEMS & P & Z MINUTES:

OTHER ITEMS OF CONCERN:

A small discussion ensued on the upcoming budget.

COMMENTS FROM THE CHAIRMAN & OTHER COMMISSION MEMBERS:

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OTHER:

APPLICATIONS NOT REQUIRING OCCIWA APPROVAL & PERMIT APPROVALS:

MATTERS OF VIOLATIONS/LITIGATIONS:

(IW 21-10) Cornerstone Assembly of God, Inc., 656 Oxford Rd, Oxford (Map 19, block 28, Lot 10,13,22) proposed use = New Church & parking, Total size of site 16 acres (Total acres of wetlands= 3.77 acres) (wetlands impact = 0 acres) (Upland review area impact = 78,780 sq. ft.) (amount of material removed= 2,455 c.y.) (Deposited= 5,055 c.y.) Summons received. Trial set for Dec. 1st.

MOTION made by Commissioner Brian Smith and seconded by Commissioner Joe Lanier to send the revised Cornerstone Church map dated 2/27/24 to the town engineer for review. All in favor 5-0.

NOTICE of Cease & Restore – 40 Hunters Mountain Rd, Clear cutting in a regulated area. (Show cause hearing on Nov. 9, 2021) Updated map received and dated December 16th, 2021.

(Notice of violation) 660 Roosevelt Drive, (Mr. Blaze Fabry & Gabriella Takacs) no permit, new elevated deck on Housatonic River. (verbal only 3/27/23)

MATTERS OF CONSERVATION:

ADJOURNMENT:

MOTION made by Commissioner Andy Ferrillo to adjourn at 9:09 pm
Seconded by Commissioner Ethan Stewart. All in favor, voted 4-0.

Respectfully Submitted,

Denise Randall

Denise Randall
I/W Administrative Secretary

RECEIVED 4/17/2024
AT 12:30 pm
M. Meredith
Asst. TOWN CLERK