

May 27, 2014



S.B. Church Memorial Town Hall  
486 Oxford Road, Oxford, Connecticut 06478-1298  
[www.Oxford-CT.gov](http://www.Oxford-CT.gov)

**Oxford Conservation Commission Inland Wetlands Agency**

**REGULAR MEETING MINUTES**

Tuesday, May 27, 2014

The **Regular Meeting** of the Oxford Conservation Commission/Inland Wetlands Agency was held in the Main Meeting Room of the S.B. Church Memorial Town Hall on Tuesday, May 27, 2014.

**Meeting was called to order at 7:30 P.M. by Chairman Michael Herde**

**ATTENDANCE ROLL CALL:** Chairman Michael Herde

**COMMISSIONERS PRESENT:** Bill Richter, Tom Adamski, Susan Purcella Gibbons, Ethan Stewart.

Also present: Denise Randall Administrative Secretary and I/W Enforcement Officer Andy Ferrillo Jr., Town Council Attorney E. Micci

**ABSENT:**

None

**AUDIENCE OF CITIZENS (NOT FOR PENDING APPLICATIONS)**

None

**AMENDMENTS TO AGENDA:**

May 27, 2014

**NEW BUSINESS:**

**Executive Session:**

**MOTION** made by Commissioner T. Adamski to go into Executive Session with Attorney Micci and the Wetlands Commission, Enforcement Officer A. Ferrillo and Secretary Denise Randall and seconded by Commissioner S. Purcella Gibbons. All in favor 5-0.

**(IW 14-40)** Carmine Rinaldi – 35 Fiddlehead Road (Dock abuts Lake Zoar)

I.W.E. Officer A. Ferrillo stated: Mr. Rinaldi from 35 Fiddlehead Rd is present to speak about the proposed dock he will be constructing.

Mr. Rinaldi stated:

My name is Mr. Rinaldi and I will be building the dock myself. The boathouse is about 25 feet up and then the stairs go back down to the water which the dock will be bolted to. First Light explained to me that I needed your approval first and then after I receive your approval then I can get First Light's approval.

I.W.E. Officer A. Ferrillo stated: This is the section where initially when we looked at the site there was an old refrigerator which made it down into the water. It's a very steep bank from the house going down to the water and there are remains of an old house down there.

Commissioner B. Richter asked about the conservation easement listed on the survey map.

I.W.E. Officer A. Ferrillo and the Chairman both stated: Yes. They have a conservation easement all along this subdivision.

Chairman M. Herde asked: My main concern is there going to be any activity on the shoreline, anything from cutting trees to whatever will make this work?

Mr. Rinaldi replied: We have not cut any trees and we won't cut any trees. The stairs go right down and the owners haven't had to do anything because they if they have to re-do the boathouse, then they need another permit.

Chairman M. Herde stated: I think we are fine here, as long as there is no activity on the shoreline.

I.W.E. Officer A. Ferrillo added: The dock is a permitted use on the wetlands.

Chairman M. Herde stated: Yes, I have no problem putting in a dock as long as there isn't all of the sudden a tree clearing.

Mr. Rinaldi replied: I will definitely not.

I.W.E. Officer A. Ferrillo agreed: Yes, don't cut any trees. I know you shouldn't have to. If it turns out that there is a dead one, then just give me a call first.

May 27, 2014

Commissioner T. Adamski asked: How is the access to the boathouse and down to the dock?

I.W.E. Officer A. Ferrillo replied and asked: They have a stairway leading down. Did you rebuild the stairway at all?

Mr. Rinaldi replied: No. We didn't touch anything. The boathouse is covered with tarps and won't even be touched.

Chairman M. Herde asked: I would like to get something straight here. Are you the applicant and the owner as well?

Mr. Rinaldi replied: I'm not the owner. We rent from them. The husband currently works in Rhode Island.

Chairman M. Herde asked: Do we have any permission here from the owner? Even the property owners name is not on the application.

Mr. Rinaldi replied: I can get that immediately for you.

Chairman M. Herde stated: Ok.

I.W. E. Officer A. Ferrillo stated: Yes. We will need their written permission, an original letter stating they are authorizing you to submit this application for a dock on their property.

Mr. Rinaldi stated: Ok. Can I bring it to you this week?

I.W.E. Officer A. Ferrillo replied: sure.

Chairman M. Herde stated: A copy of the approval should go to the owners.

I.W.E. Officer A. Ferrillo asked when the applicant planned to start.

Mr. Rinaldi replied: I was planning on as soon as possible.

I.W.E. Officer A. Ferrillo stated: Ok. Once we receive that letter, you will be ok to start.

**MOTION** made by **Commissioner B. Richter** to approve a permit for constructing a dock. Conditions are that the owner is aware that this is in an upland review area and no other activity, other than fastening the dock is in this application. No filling, no cutting of trees, no activity on the shoreline. **Commissioner T. Adamski** seconded. All in favor **5-0**.

(IW 14-44) Fred D'Amico/Barbara Crisp (Dorman Road, lot 1C) Single family residence  
Mr. Fred D'Amico (D'Amico Associates, Civil Engineer, L.S.) pointed to the map of the changes from the first survey map and stated: What I did, after walking the site, I pulled back the limit of clearing to basically to be 35 feet off the house.

May 27, 2014

Chairman M. Herde asked: Can we discuss a conservation easement?

Commissioner T. Adamski asked: How do we keep that limit of clearing?

Mr. D'Amico stated: There has not been a discussion until it will be sold.

Commissioner B. Richter asked: How much longer till it's sold?

Mr. D'Amico replied: I believe not much longer.

Chairman M. Herde asked: Do you think we can get the conservation easement defined by a fence for the limit of clearing?

Mr. D'Amico replied: I will put this information on the map.

Mr. D'Amico then exited the meeting.

I.W.E. Officer A. Ferrillo stated: Mr. Siyuan Cao representing Civil One is present to speak about the 2 applications on Hawley Road.

(IW 14-39) X-Real Property, LLC – Lot 15A Hawley Road (Patriot Business Park) 10 acres, industrial – manufacturing, warehouse

(IW 14-38) 589 Investments, LLC -119 Hawley Road, Lot 12R, 15, 15A (proposed road with 3 existing bldg lots, industrial bldg and parking

Mr. Siyuan Cao representing Civil One and introduced himself and quickly introduced the project about the industrial zone properties. A couple of years ago we proposed a 9 lot subdivision and we were approved through wetlands. This year the owner sold the front lot and 10 acres and this is the old design map. This year the XAL bought this piece, 10 acres and proposed to build a 100,000 square foot building and the owner decided to divide it into 3 lots because the big lots are more preferable right now so we moved the road (pointing to where the proposed road will be). The only impact to wetland is the original proposed detention basin and this area (pointing to map) leading to the wetland. The road has a high point in the middle and the lower part will be discharged through this one swale to the wetland. The XAL building will have 2 detention areas (Pointing to map) and then go to the street. We have 2 separate applications and one is for 2 separate lots for future construction and the other is for XAL.

Commissioner T. Adamski asked: The water being discharged into to the wetland, where is that coming from? Obviously its road drainage.

Mr. Cao replied: Yes, half of this road drainage. Pointing to the map, here is the high point and there are 2 catch basins that will go to the drainage swale and down to the lower detention pond.

Chairman M. Herde asked: What is the access to that detention pond in the future?

Mr. Cao replied: We propose a driveway, (pointing to map). This is a small driveway.

Chairman M. Herde asked: Is this a private detention basin?

Mr. Cao replied: I think it's a private detention basin.

May 27, 2014

Commissioner T. Adamski asked: Now is this a driveway or a public road? (pointing to the map)

Mr. Cao replied: This will be a public road.

Chairman M. Herde stated: The only thing I have here out of this plan now is that, that is a really long distance away from the roadway and whether trees go across this swale in the future, I want to know who is maintaining it and who is responsible for it because that is a huge distance away. If that roadway or access way even deteriorates or for some reason erodes, you can have a really expensive repair to try to just even get to the detention basin.

Commissioner T. Adamski stated: I guess I don't understand how you can have a private detention basin that's taken storm water from a public road.

Chairman M. Herde stated: Yes. Just overall what is that 16 or 1800 feet? We will need some clarification on what is going on with this detention area here.

Mr. Cao replied: Sure.

Commissioner S. Purcella Gibbons asked: Is this residential area (pointing to the map)

I.W.E. Officer A. Ferrillo replied: I believe it's mainly commercial on Hawley Road. There are people living there now and they can stay there as long as they want but if they sell it, the property will eventually be commercial. This road here (pointing to the map) according to Nafis and Young, from Hawley Road to there is about 850 feet and so now you have at least that much, if not more.

Chairman M. Herde agreed and stated: Yes. It just looks like it's awfully far in and will it be out of sight, out of mind and will anybody even know if it's working.

Mr. Cao replied: In the previous design, there is also a swale.

I.W.E. Officer A. Ferrillo stated: According to this map, it shows that the detention, the roadway, grass lines channel and roadway detention basin in favor of the Town of Oxford so the town will have to maintain that basin.

Mr. Cao asked: The previous design has a long swale?

Chairman M. Herde replied: I would have say my understanding was that it was temporary because there was going to be a lot longer road coming in. I really think we should talk with the Town Engineer on this about that. Is it something that will need maintenance in the future?

I.W.E. Officer A. Ferrillo agreed

Commissioner T. Adamski agreed and asked: Yes. Are the swales going to need maintenance?

Chairman M. Herde stated & asked: That is what I'm wondering too. If the swale fails somewhere along the way and goes in another direction, will anyone even know its happening?

May 27, 2014

I.W.E. Officer A. Ferrillo asked: Do you think in overall picture; would it would be better with swales instead of piping? The concept seems better but your right, it's a long swale. You could have potential blockages with brush and whatever else.

Chairman M. Herde stated: Yes and its not being maintained ahead of time. That swale is a real flowing swale with a lot of water and at times when it's blocked, it flows out. You are creating a river.

Commissioner T. Adamski added: Actually, at least if it was a pipe, then it would back up in the street and then you would know when something was wrong.

I.W.E. Officer A. Ferrillo stated he would speak to the town engineer tomorrow regarding this issue.

Commissioner B. Richter asked: Did they answer recommendation number 4? It states the only inland wetland activity associated with this application is the discharge from the detention basin.

Mr. Cao pointed to the area.

Chairman M. Herde asked if the 24 recommendations were addressed.

Mr. Cao replied: They will be addressed as we just received this today.

I.W.E. Officer A. Ferrillo stated: Yes, we just received this today.

Chairman M. Herde asked if anyone had anymore questions.

No more questions from the Commission.

Chairman M. Herde stated: Ok. We will see you at the next meeting

Mr. Cao replied: Yes and Thank you.

**OLD BUSINESS:**

**NEW APPLICATIONS REQUIRING OCCIWA APPROVAL (ACCEPTANCE)**

None

**CORRESPONDENCE:**

**OTHER BUSINESS:**

May 27, 2014

**ACCEPTANCE OF APPROVAL MINUTES & CORRECTIONS TO MINUTES (IF ANY):**

**MOTION** made by **Commissioner S. Purcella Gibbons** and **seconded** by **Commissioner T. Adamski** to accept the regular meeting minutes from the 4/22/14 with no changes.  
All in favor **5-0**.

**ENFORCEMENT OFFICER:**

I.W.E. A. Ferrillo stated: We have a bill from the REMA Ecology Services for \$2127.00 for the work performed on lots 5R and 8R, Morse Road.

**MOTION** made by **Commissioner S. Purcella Gibbons** to pay \$2127 for an ecology review report performed on Lots 5R and 8R Morse Road. **Seconded** by **Commissioner T. Adamski**.  
All in favor 5-0.

**COMPLAINT/CONCERN:**

Chairman M. Herde stated: We have a written complaint regarding farm property owned by Mr. Vizzo on the corner of Good Hill Road and White Gate Road from a neighbor who lives next door on White Gate Road. The complaint states that he is more worried about the future storage of trucks for Mr. Vizzo's catering business moving on the property than the firewood storage. Mr. Vizzo's business is catering, not firewood. I let the complainant know that the firewood should be an agricultural item and also that the Commission has no ability and no right to regulate future activities that have not happened yet. We have the complaint in front of us and it's on the agenda and I would like input from the Commission for the record. I would like the Commission's feelings on this matter because I want something to go in with Mr. Vizzo's application and exemption in his file.

Commissioner T. Adamski stated: I went out with I.W. Enforcement Officer and looked at it and potentially it's a farming operation. It's not exactly being farmed right now but you can't make a farmer plant.

Chairman M. Herde agreed: Yes. And anything that he has done, it has taken a very long time. One of the things it doesn't say in the agricultural exemption about whether it is your primary business or it is a hobby, it's immaterial to the law. So if this is Mr. Vizzo's hobby and he wants to farm pumpkins and it takes him years to get to the point where he can actually plant them, which we are several years into it, but along the way the way he has progressed in that direction as far as we can tell. There was for a time machinery sitting there but the machinery is now gone. He said he was going to spread some organic material on the property and he did that. Now he is splitting up some firewood, most of which was already on the property before he even cut trees.

May 27, 2014

I.W.E. Officer A. Ferrillo stated: And Commissioner Adamski and myself did not see any evidence that he filled a wetland and it appears he bermed up to the wetland, so to prevent, I assume, to keep that manure from getting into the wetland.

Commissioner S. Purcella Gibbons stated: Right.

I.W.E. Officer A. Ferrillo continued: The wetland is flowing.

Chairman M. Herde stated: I would say if you actually had a soil scientist on the property the wetland is probably a lot bigger than it appears to be on a drive by. There was a short time during this season this year when you can see that it actually went up on a v right up the center. I think if you did core samples you might find a little more wetland.

Commissioner E. Stewart stated: I drove by today and even by the gate it's pretty deep and soft all the way up hill.

Chairman M. Herde added: Yes. Even when he brought in organic compost, a couple of years ago, and it was basically barn cleanings from another farm and then spread it. That stuff soaks up water like crazy so even the wetland species now, I think are moving up hill into his new material but that was stated in his request for an exemption. He said he was going to spread 6 inches of organic matter on the property.

I.W.E. Officer A. Ferrillo stated: There was a ruling from the State of Connecticut Appellate court which we have to adhere to. The ruling is once an agricultural exemption is approved we cannot place any conditions on the property. We can't tell him when to plant, we can't tell him what to plant.

Commissioner B. Richter stated: There has to be a time limit on something.

I.W.E. Officer A. Ferrillo replied: There is no time limit.

Chairman M. Herde added: It's an open ended thing and you can see how it is lacking in some details in the statutes. The complainant says he has reviewed the model regulations which Oxford has for its agricultural exemption.

Chairman M. Herde asked: Do we have it in our books?

I.W.E. Officer A. Ferrillo asked: Our regulations?

Chairman M. Herde replied: Yes.

I.W. E. Officer A. Ferrillo replied: No. The Agricultural Exemption which we follow is in the State of Connecticut Wetlands regulations that determines exempt activities. The Town of Oxford right to farm ordinance has no bearing on the wetland regulations.

May 27, 2014

Chairman M. Herde stated: Right. But he says that Mr. Vizzo is outside of the agricultural exemption and we are allowing it.

I.W.E. Officer A. Ferrillo asked: How is he outside of it?

Chairman M. Herde replied: I don't know

I.W.E. Officer A. Ferrillo replied: He never stated that in his complaint.

Chairman M. Herde stated: I would like to take the time to review the regulations and send a letter and all of this information to the Town Attorney.

The Commission then looked over the General State Statutes and agreed to send all of the information to the Town Attorney.

I.W.E. Officer A. Ferrillo stated: Yes. We will draft a letter up saying that the Commission reviewed all the evidence to date.

Chairman M. Herde stated: There is not an open watercourse on this property. It is wetland soils there is not a river or a brook.

Commissioner T. Adamski added: It's a seep, there is no continual flow.

Chairman M. Herde added: If necessary we will get a soil scientist to determine this for us but it's pretty obvious from our own training that there is no watercourse but there are wetland soils.

I.W.E. Officer A. Ferrillo stated: There is wetland soils and there is water that seeps out of the ground and once it does it goes under the road. There was moving water the last time we were there.

Chairman M. Herde stated: But even in this it says, no re-locations of watercourses with continual flow filling of reclamations of watercourses with continual flow, clear cutting of timbers except for the expansion of agricultural crop land. They are saying you're actually allowed to do it, for crop land, you can move a watercourse.

I.W.E. Officer A. Ferrillo replied: That is the way I interpreted it but Darcy Winthers from D.E.E.P., Inland Wetlands Division said no, you can't fill a moving watercourse. The statutes can be interpreted either way, I think.

Commissioner T. Adamski asked: Isn't just saying, clear cutting of timber except, and then referring this to that?

I.W.E. Officer A. Ferrillo replied: But then there is no real delineation to what follows after that.

May 27, 2014

Chairman M. Herde stated: Yes. That might read a little bit different in this exception. Gardening and harvesting of crops is essential to a farming operation which to me is pretty clear. Granted I know Mr. Vizzo hasn't planted anything yet, but he has been working in that direction and even put up a deer fence for it.

I.W.E. Officer A. Ferrillo stated: I think he is serious about it.

Chairman M. Herde added: Yes. And especially when I saw the deer fence being put up and I think it would be a tragedy if he started putting machines over there and setting them there and saying they were farming machines.

I.W.E. Officer A. Ferrillo stated: Again, we would have to tread lightly, depending on what kind of machine it is. I certainly believe a person can have a tractor on a farm.

Commissioner S. Purcella Gibbons stated: We can't regulate future activities.

Chairman M. Herde stated: Right. We can not regulate future activities. And at the time right now we don't see anything other than agricultural preparation.

Commissioner S. Purcella Gibbons stated: We have to base each case on the merits on these applications.

Chairman M. Herde stated: At this time, Mr. Vizzo seems to be within his request for his agricultural exemption which was granted.

I.W.E. Officer A. Ferrillo stated: Once the agricultural exemption is granted, he has the right to farm whatever he wants, as often as he wants. We can't put any conditions on an exemption.

Chairman M. Herde stated: Timber harvesting and sale is part of an agricultural operation.

I.W.E. Officer A. Ferrillo stated: If he piled the wood in a wetland, then we can probably say pull it out of the wetland, but he didn't do that. He can't get any further away from the wetland on that property.

Chairman M. Herde replied: Yes. The pile of wood is part of an agriculture exemption.

I.W.E. Officer A. Ferrillo stated: I don't think there is anything in the statutes there that says the wood has to come from that site. You can bring the wood in, cut it and sell it.

Chairman M. Herde stated: Draft it up and send everything to Attorney Condon (Town Attorney)

I.W.E. Officer A. Ferrillo stated: We should probably make a courtesy call to Mr. Vizzo.

Chairman M. Herde replied: I can do that or stop by on my way home.

**APPLICATIONS NOT REQUIRING OCCIWA APPROVAL:**

<b>DATE</b>	<b>NAME</b>	<b>ADDRESS</b>	<b>NON-PERMIT REASON</b>
10/7/2013	Paul Duh Brett	16 Sheldon Drive	roof renovations -partial Basement
10/15/2013	Renee&Jackson Colonial Pet	62 Chestnut Tree Hill Rd.	In-law apartment 1700'
10/17/2013	Cremation 66 Hawley Road,	315 Riggs Street	Pet Crematory
10/21/2013	LLC	66 Hawley Rd.	Demo Satellite Dish
10/24/2013	Lou Coppola	44 Pigsaw Rd.	Remodel Bsmt
10/28/2013	Donna Masi	47 Newgate Rd.	Partial Finished Bsmt
10/28/2013	Heather Haney	579 Chestnut Tree Hill Rd.	Cottage Business -Xmas Stuff
11/4/2013	Ordinem Ecentric Cortores	7 Fox Hollow	Brewery
11/4/2013	Champion Windows	42 Bowers Hill Rd.	Enclose existing Screen Room
11/5/2013	Margaret Thomas	571 Inverness Ct.	3-Season Porch
11/18/2013	Mark I. Hinnau	15 Wychwood Lane	Finish Two Attic Spaces and covered porch
11/19/2013	Margaret Thomas	571 Inverness Ct.	Recreation room
12/2/2013	Tyler Tucker	76 Bowers Hill Rd.	Renovations
12/5/2013	Ken Hogan Const. ION	471 Roosevelt Dr.	(Interior) Screen Porch/mud room
12/9/2013	Bank	71 Oxford Rd.	Interior work
12/9/2013	John Arnone	42 Highland Rd.	Remodel existing bathroom
12/11/2013	Joe Jackson Brennans Shebeen	108 Country Club	Kitchen & Bath remodeling
12/16/2013	Ill	441 Oxford Rd.	Use Permit Tenant Fit up
12/18/2013	Margaret Thomas	571 Inverness Ct.	Co for rec room
1/8/2014	Best Wise Assoc George Transport,	441 Oxford Rd.	Professional Office
1/9/2014	LLC	766 Oxford Rd.	Cottage Biz
1/13/2014	Chris Kelly	347 Niblick Lane	Finish bsmt
1/16/2014	Enterprise BUI, LLC	7 Fox Hollow	Mezzanine

**MATTERS OF VIOLATIONS/LITIGATIONS:**

May 27, 2014

1. Notice of Cease & Restore – (88 Perkins Rd) Debris and garbage on property.
2. Notice of violation – (543 Roosevelt Drive), wall constructed in a flood zone without a permit.
3. IW 13-47) Garden Homes, Hurley Road (Permit approved, pending litigation)
4. (IW 13-93) Cocchiola Paving - Riverview Subdivision, (Permit denied, pending litigation) (return of record was completed and presented in court on April 2, 2014)

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

**OTHER ITEMS OF CONCERN:**

COMMENTS FROM THE CHAIRMAN & OTHER COMMISSION MEMBERS  
OTHER:

- 1) **Oxford Oak, LLC 360 Oxford Road** (Lot 39) (Stabilization of site).
- 2) Open Space Inventory Map. Completed by New England Geosystems
- 3) **NOV WR SW 06 007 (Issued 4/10/06) CT DEP Meadow Brook Estates, Great Hill Road** (Remove Sediment from Pond & Stream) (Letter dated 9/27/06) (Memo dated 8/4/06). Work completed, staff to monitor site for 1 year.
- 4) Town of Oxford Catch Basins (Silt Removal).
- 5) Storm Drain Marker Program (Phase II).

**MATTERS OF CONSERVATION:**

**ADJOURNMENT:**

**MOTION** made by **Commissioner S. Purcella Gibbons** to adjourn at 9:15 p.m.  
**Seconded** by **Commissioner B. Richter**. All in Favor **5-0**.

14 JUN 19 PM 4:18  
TOWN OF OXFORD, CT  
TOWN CLERK  
*Stephanie K. West*

Respectfully Submitted,

*Denise Randall*  
Denise Randall