

INLAND WETLAND AND WATERCOURSES COMMISSION

MINUTES OF MAY 3, 2006 7:00 P.M.

POMFRET TOWN HALL CONFERENCE ROOM

These minutes have not been approved.

Members present were: David St. Martin, Chairman, Paul Hennen, Secretary, Joe Travinski, John Folsom, James Rabbitt, WEO, Marshall Eaton, Katarina Rutkowski, Alternate, James Rowley, Alternate and Ryan Brais, WEO. Absent: Paul Safin, Vice Chairman, and Joe Stoddard.

OPEN PUBLIC HEARING – David St. Martin, Chairman, opened the hearing at 6:32 p.m. for: **RLB/PAB LLC, Route 44 and Covell Road**, 6-lot subdivision. Bob Messier from Messier Associates was present along with Roger Breault and Steve Smith to discuss the application. Mr. Messier spoke to the issue of the longest driveway and a lot that has been removed. It is now a 5-lot subdivision. He spoke to the design of the box culvert not a round culvert. Messier stated that all dumps have been removed. NDDH approval was received. Messier stated that the riparian buffers as discussed with Don Aubrey is 50-75' and allow natural buffer to grow back. James Rabbitt and I have discussed this. Messier reported that some of the major concerns have been dealt with. NDDH approval was read into the record. James Rabbitt stated that he and Messier have discussed the conservation easement, hedgerow with wetlands that runs Northeast, Conservation Easement around pond, and removal of invasive species to preserve pond. Autumn Olive and Multifloral rose can be removed with the hard line with native growth. Brush hog 1 or 2 times a year. There was discussion about 4 property owners around the plan. Messier stated the plan will be modified to 2 landowners. Lot 2.4 and 2.5 will be eliminated from along the pond. Paul Hennen asked for a detailed plan of the work to be done around the pond and the removal of the invasive species. Ed Pawlak submitted his report. He gave an overview of the invasive species. He stated the wetlands are a valuable wetlands and needs to be preserved. Paul Hennen asked would there be any merit for remediation of the ponds themselves. Pawlak stated that the ponds are spring feed and there is no water flowing into it because they are spring fed, they will have algae blooms and duck weed. By stopping the agricultural and fertilizer use, supporting plant growth, and dredging the pond(s) to remove sediment, would make the pond more beautiful for the future property owners. Rutkowski asked if something should be put in the easement to improve the pond. Deal with the invasive species. Pawlak stated that it is a double-edged sword because it provides an excellent screen, the visual barrier is good and the invasive species are so extensive with hundreds and hundreds of plants in that area.

St. Martin asked if anyone would like to speak to the project: Bill Corey, Abutter, was present to ask again about the drainage out front along Route 44. Messier stated that there would be a single crossing to allow free flow of water. A swale

not exists. Corey stated that presently all the water comes down and is in his driveway. Messier stated his plan changes absolutely nothing. St. Martin asked if anyone from the public would like to speak to the issues. There was no one. St. Martin stated that the changes need to be on paper which finalizes lot lines, showing the riparian buffers, and box culvert details. The Public Hearing will be continued to June 7, 2006 at 6:30 p.m. at the Pomfret Town Hall Conference Room.

OPEN THE REGULAR MEETING – St. Martin opened the regular meeting.

SEAT AN ALTERNATE AS NEEDED – The two alternates were seated – James Rowley and Katarina Rutkowski.

ITEMS TO BE ADDED TO AGENDA – 1 no fee – John Folsom made the motion to add this item to the agenda. Rowley seconded. Approved unanimously.

CITIZEN'S COMMENTS: None

PENDING APPLICATIONS:

1. Brian Sheldon, 155 & 195 Searles Road, proposed earth removal within upland area. Application received on 12/7/05. St. Martin stated that there was a change between the applicant and co-applicant. There was a letter to Planning and Zoning to withdraw. We are looking for documentation. There was no letter to withdraw. John Folsom asked for clarification if a motion is made to approve or deny the application. James Rabbitt stated the positives and negatives of this approach. Paul Hennen stated that he had composed a motion and would like to read it into the record. Hennen read: Motion is made to deny the wetlands application of Brian A. Sheldon, received by the Pomfret IWWC on December 7, 2005 for the proposed earth removal within an upland regulated area located at 155 and 195 Searles Road, Pomfret, Connecticut for the following reasons:

1. Under Section 22a-41(b)(1) of the Connecticut General Statutes and Section 10.3 of the Pomfret IWWC Regulations that any activity that may have a significant impact on wetlands and/or watercourses a permit shall not be issued unless the Agency finds on the basis of the record that a feasible and prudent alternative does not exist.
2. The applicant failed to provide the Agency with alternatives and other decision criteria including but not limited to Section 10.2a through f of our regulations some of which is listed as follows:
 - a. The purpose for, and any feasible and prudent alternatives to, the proposed regulated activity which alternatives would cause

- less or no environmental impact of the proposed regulated activity on wetlands and/or watercourses.
- b. The short term land long term impacts of the proposed regulated activity and the long-term productivity of wetlands and/or watercourses impacted by the application.
 - c. Failure to identify future activities associated with or reasonable related to, the proposed regulated activity that are made inevitable by the proposed regulated activity which may impact on wetlands and/or watercourses.
3. Under Section 19.2, the IWWC may not approve an application where fees have not been paid.
 4. The applicant may consider other land uses for this parcel pursuant to Section 9.4 (Commercial/Business District) of the Pomfret Zoning Regulations that may have less or no impact on wetlands and/or watercourses. However, because of the potential adverse impact to wetlands and/or watercourses at this site, the Pomfret IWWC will regulate land use activities at this location.
 5. This motion shall not preclude any remedy or other legal action which may be initiated by the Pomfret IWWC to restore and/or mitigate the extensive damage caused by Brian A. Sheldon to wetlands and/or watercourses at referenced site prior to the violations documented by the Agency's appointed agent in correspondence to him dated March 7, 2005.

This motion was seconded by John Folsom. There was discussion about the motion, clarification and the motion was amended as above. Seconded as amended by John Folsom. With a roll call vote it was denied unanimously.

2. **RLB/PAB LLC, Route 44 and Covell Road**, 6-lot subdivision. The Public Hearing will at the April 5, 2006 meeting at 6:45 p.m. at the Pomfret Town Hall Conference Room. Public Hearing Continued to June 7, 2006 at 6:30 p.m.
3. **Denise Morrow, 82 Tyrone Road**, timber harvest. James Rabbitt reported he granted a jurisdictional ruling for this harvest with the following conditions: A pre-harvesting meeting will be held in the field with staff prior to harvest beginning, Best Management Practices to be used, and harvest to be done in the dry season.
4. **Denise Morrow, 324 Modock Road**, timber harvest. James Rabbitt reported he granted a jurisdictional ruling for this harvest with the following conditions: A pre-harvesting meeting will be held in the field with staff prior to harvest beginning, Best Management Practices to be used, and harvest to be done in the dry season.
5. **Colonial & Federal Development, LLC., 249 Mashamoquet Road**, 4-lot subdivision. Mark Sullivan and Lincoln Mayo were present to discuss

the application. It is now a 3-lot subdivision. A revised plan was submitted. There was discussion about the new lot design, the number of owners on the pond.

6. **Kenneth Parron, 87 Brooklyn Road**, driveway to barn off Page Road. Mr. Parron was present and described the wetland crossing. He asked for a jurisdictional ruling. The project was discussed and if there are wetlands which may be affected within 150', the application must come back for approval. James Rabbitt to do the site walk.
7. **Christopher & Mary Bastien, 257 Kearney Road**, single-family home. Greg Glaude and the Bastiens were present to discuss the application. A revised plan was presented. There was discussion about the stake in the northeast corner, third marker post to be added, NDDH approval letter for a three bedroom house, construction is within 10' of the tree line, cutting of dead oak, additional post on the east side, the wetland buffer disks, a split rail fence for limits, and the conservation easement. John Folsom made the motion to approve the application with the following conditions: the applicant to place wetland tag between the proposed well location and the north at the easterly corner of the house. Marshall Eaton seconded. Approved unanimously.
8. **Shane Pollock, Swedetown Road**, single-family home. The applicant called the clerk to state that they were testing for a better site. The applicant asked to table to June.

CITIZEN'S COMMENTS – None.

NEW APPLICATIONS:

1. **Charles Weedon, 144 Hampton Road**, new house, well, septic, driveway. Charles Weedon was present to discuss the application for a single-family home. The house location is slightly different. There was discussion about the septic field, the driveway change for safety issues. There is no NDDH approval. James Rabbitt stated that the proposed culvert is in a location of a wetland area. The conservation easement is still in force. The commission is looking for the NDDH approval, DOT approval, the conservation easement on the plan and filed, and wetland tags in place. Continued to the next meeting.
2. **Town of Pomfret, Pomfret Community School**, expansion of bus turnaround parking area. Jim Rivers, First Selectman was present to discuss the application. He has had preliminary discussion with James Rabbitt about the project. He wants to add approximately 40 new parking spaces to the Pomfret Community School Parking area in the back and in the front also. There was discussion about the E&S, the area being curbed, catch basin(s), in-let structure, flat top and hooded basins. James Rabbitt can do a Jurisdictional Ruling if all concerns are met.

NON-FEE APPLICATIONS:

1. **56 Chase Hill Road, Robert Lavoie**, construction of single-family home. Application was approved by the commission.
- 2.
3. **89 Tyrone Road, Bill MacLaren**, signs. Application was approved by the commission

NOTICES OF VIOLATION:

1. **James Dean, 862 Pomfret Street**, activity within 150' of a wetland. 3/3/04. The commission needs an application from him. Dr. Dean was present to discuss the cease and desist. He described the time line and the dam work. Dean stated that he had KWP out to look at the project. The value of the project and the cost to do the project is ridiculous. Dean stated that he was not interested in doing the project. James Rabbitt will do a site walk and review the status and would ask for a letter stating that the work will not be undertaken.
2. **Town of Pomfret, Bus parking and Town Garage, Mashamoquet Road**, NOV 11/04. James Rabbitt stated that some of that work has been done to bring up to compliance he is looking for final grading to be done. The work has improved the area substantially but it is not vegetated.

CEASE AND DESIST ORDERS:

1. **Brian and Marie Sheldon, 195 Searles Road**, cease and desist in effect as of March 16, 2005. This application was received on January 4, 2006. This will be kept in force. There was a decision to deny the application. This is a landowner who has violated the regulations and who has made no personal attempts to rectify anything. An attorney was present with a new application. He was asked to return on Friday when he could present the application and get the fees for the application as requested this evening. David St. Martin stated that it would be appropriate to place a caveat on the property. John Folsom asked about the fining ordinance. Rabbitt explained the procedure. Paul Hennen made the motion that a certificate of the Notice of Violation be placed on the land records of 155 & 195 Searles Road on property owned by Brian and Marie Sheldon. Marshall Eaton seconded. Unanimously approved.
2. **Kenneth Cardinal, 90-96 Wrights Crossing Road**, bridge construction. This application was received on 10/5/05. This will be kept in force. The Cardinals faxed a letter to the commission for the meeting. The letter was read into the record. KWP was out there,

Conservation tags are in place and the conservation easement will be done. Ryan and Jamie to review the status of the project.

3. **Dr. Richard Lefebvre, 85 Searles Road**, gravel extraction and work in the regulated area. NOV 4/05. This will be kept in force. New application at the February 1, 2006 meeting. His application was approved at the March 1, 2006 meeting. Dr. Lefebvre's son-in-law, Mr. Foisy called the clerk to state his father-in-law was in the hospital and he wanted to contact James Rabbitt so he, Mr. Foisy, could finish the project. Rabbitt to call Foisy.
4. **JASD, Orchard Hill Road**, work in regulated area. NOV 10/05. Mr. Rose will come back to the commission in April. This will be kept in force. There were two large trees taken down on the road side of his property.

JURISDICTIONAL RULINGS:

1. **Christine and Paul Bernier, 137 Valentine Road**, single-family home. The jurisdictional ruling was granted by James Rabbitt with the following conditions: 10 feet of additional grading, pines to be cut flush to the ground, and driveway may have to remove 75-80' of stonewall.
2. **Hull Forest Products, Inc. Taft Pond Road**, timber harvest. Jurisdictional Ruling was granted by James Rabbitt.
3. **Town of Pomfret, Holmes Road**, drainage repair. Jurisdictional Ruling was granted by James Rabbitt.

PRIOR APPLICATIONS WITH CONDITIONS:

1. **Keith and Erin Wilcox, 127 Tyott Road**, single-family home.
2. **Paul and Elena Ionkin, 185 Babbitt Hill Road**, single-family home. Size of house to be changed, and wetland markers to be placed on new plan to be submitted.
3. **Mark Blakely, 138 Longmeadow Drive**, single-family home.
4. **Pomfret School, Inc., Grosvenor Road**, timber harvest.

SUBDIVISIONS APPROVED BY PLANNING AND ZONING: NONE

COMPLAINTS/CONCERNS RECEIVED BY THE COMMISSION –

Paul Hennen reported - Paine Road – 500' on right there is a historic bar way and fill to cross wetlands 50 years ago. In that area someone dug a trench through it which drains an uphill wetland. A NOV has not been issued yet. They dug a trench and it should be refilled. Rabbitt discussed the technical aspects of the project and when to rectify this problem. There will be a subdivision application coming forward for this property. Rabbitt recommended that we clear this up in the application process. There was discussion about what is being

done there and how to solve the violation. We will monitor the site and wait for the application.

EXTENSIONS REQUESTED –

1. **Robert and Cynthia Laurendeau, 121 Paine Road**, extension. Marshall Eaton made the motion to extend the application to the maximum 3 years. Joe Travinski seconded. Approved unanimously.

CITIZEN'S COMMENTS – NONE.

COMMISSION BUSINESS:

1. Report of Public Relations Standing Committee – Wetland Demystified has been submitted. Nothing this month. We need to have a meeting.
2. Report of Regulations Update Committee – Paul Hennen stated he is waiting for the DEP model regs. Anticipating they will be ready in 6/06.
3. Updates and Report from WEO and Commission Members: Ryan submitted his written report. James Rabbitt had nothing to present
4. Approval of the April 5, 2006 Meeting Minutes – Paul Hennen motioned to approve the minutes as presented. Jim Rowley seconded. Approved unanimously. Approval of the April 12, 2006 continuations of the public hearing minutes. Paul Hennen motioned to approve the minutes as presented. John Folsom seconded. Approved unanimously.
5. Report of billing, and bond releases. The billing is in very good shape. The bond for Gauthier and Turenne are in force. Sheldon and Cournoyer are past due.
6. Municipal Fining Ordinance discussion and approval. Paul Hennen made the motion to approve the fining ordinance as written. Marshall Eaton seconded. There was discussion about submission and remediation, compliance periods, letter g. the presenter is admitting liability and a changed of and to or, and exclude to preclude. John Folsom made the motion to approve the draft as amended. Marshall seconded. Approved unanimously.
7. Correspondence –Correspondence was passed around. There was correspondence for all members from Kevin Tighe attorney for Railroad Street violation. A response will be sent along with the memorandum of the commission.
8. As needed – None.

ADJOURNMENT – Joe Travinski made the motion to adjourn the meeting. Katarina Rutkowski seconded. Approved unanimously.

Respectfully submitted,

Betty Morin, Clerk