

**INLAND WETLAND AND WATERCOURSES COMMISSION**  
**MINUTES OF MAY 7, 2008 6:15 P.M.**  
**POMFRET TOWN HALL CONFERENCE ROOM**

These minutes have not been approved.

Members present were: David St. Martin, Chairman, Paul Safin, Vice Chairman, James Rowley, John Folsom, Secretary, Joe Travinski, Joe Stoddard, Marshall Eaton, Nancy McMerriman, Alternate, John Bergendahl, Alternate, William Gould, Alternate, James Rabbitt, Designated Agent, and Ryan Brais, WEO.  
Absent: None.

St. Martin opened the Public hearing for **Claudia and William Abbott, Angel Road**, to construct access crossings for a 2-lot resubdivision at 6:16 p.m. St. Martin explained the process of the public hearing. Bill Abbott was present from 439 Brayman Hollow Road. He stated he was the owner and waiting for Bob Messier to arrive. St. Martin explained we would wait for Mr. Messier. St. Martin reconvened the meeting at 6:20 upon arrival of Bob Messier. He stated Ed Pawlek was on his way. Messier presented revised plans, the green cards were received. Messier explained the changes in the plan from the comments received. What they are proposing is a relocation of the bridge and not use the cobblestone bridge on sheet three. Ed Pawley arrived and went through his report about the impact on the wetlands in the area, the quality of the wetlands in the area and the access to the two lots which are 10+ acres each, split driveway, Army Corp 5000 sf will not be met. A letter from NDDH was presented. St. Martin asked about the private preservation area. There was discussion about the standard language Conservation Easement. St. Martin stated that the two added together would be 7500sf. There was discussion about the 12' wide driveway, underground utilities makes it 14'. Rabbitt spoke about the application receipt date and the need for an extension to continue the public hearing. McMerriman asked if 12' feet wide enough for two vehicles. Messier stated closer to 14'. St. Martin asked about profiles of the driveway. Folsom asked about the driveway design. Ed Pawlek spoke about the property's intermittent stream, sheet flow, swamp, recharge area, stonewalls, and shallow ponded water area, no egg masses, dip netted too shallow, no vernal pool, mosquito larvae, there is a perennial watercourse, good water quality, may flies, I turned over rocks, salamanders, good water flood flow, and the design of the crossing needs to provide passage under the DEP stream crossing guidelines. I would recommend an arch span, open end culvert with an undisturbed vegetative buffer be 75' wide on average with the conservation easement in that area. St. Martin asked for people willing to speak in favor. None. St. Martin asked for people willing to speak against. Bill Gould submitted a letter from Marjorie Yater dated 5/7/08 and read into the record. Bill Gould also recused himself from this application. Messier stated that there was ample space to move that 100'. St. Martin stated that we have received modified plans; the extension is needed so the driveway has the 75' buffer. We will extend the public hearing. The extension request was received. St. Martin stated that we need revised septic plan for lot 2, revised print of profiles of culvert, driveway relocation, feasible and

prudent alternatives, new NDDH approval, and the stonewall was discussed along with the right of way that exists on the property. Messier stated yes. Rabbitt stated that the driveways are needed for P&Z regulations. The public hearing is being continued to June 4, 2008 at 6:15 p.m.

St. Martin opened the regular meeting at 7:05 p.m. and suspends the meeting for the next public hearing for: Open Public Hearing for **Bruce and Donna Smith, 133 Clapp Road**, construction of single family house, well and septic system. Driveway will require crossing a small stream at 6:30 p.m. David Held was present along with Mr. and Mrs. Smith for the discussion of their application. The green cards were received, NDDH letter was received. Held described the project of a single family residence with access off Clapp Road, proposing access to building site with gravel drive on historic logging path, the regulated wetlands area, stream, and historic bridge abutments. Held stated they are proposing a stream crossing in that area with 1200sf of wetland disturbance, natural invert pipe is better for the ecological system. Syl Pauley, Engineer, letter read into the record. Rabbitt explained the public hearing process. This is an application for a 1200sf disturbance with no feasible and prudent alternatives presented. Based on the type of information received tonight, E&S, surety, construction surety in this delicate area. Held stated that the last page of the plans reflects Syl Pauley's recommendations and stone headwalls to extend. Bill Gould asked just building wall of stone? You have to look at the fact that the driveway will have fuel trucks, etc. Held stated there would be a wing wall which is flared away. Gould asked if there will be material over the pipe. Held stated that he would not be concerned with that. Gould stated that one foot of fill is 3 feet of fill on each side. Folsom asked about prudent and feasible alternatives. It is the applicant's job to produce that. Rabbitt is in no structural detail in the plan and it does not determine the structural soundness. Folsom stated that the location is good and is a box culvert, the abutments are there. Rabbitt stated that with regards to feasible and prudent alternatives, David and I may debate the construction. Held stated since we are counter sinking it, the only worthwhile thing is to put a new deck over it. It's not strong enough. St. Martin stated wouldn't a larger box culvert work. Held stated that from a construction standpoint, with a concrete pipe it is a day long process at most. I disagree with that, we are using wing walls, stone abutments. Safin asked how high it was going to be, the depth. Held stated 2.5', 6', it is designed to pass a 25 year storm. Folsom asked about underground utilities. Safin stated there is no sequence of operation. St. Martin stated that the Significant Activity must answer 7.6 A-G, there are no answers to all of those tonight. St. Martin discussed other missing information as per regulations as well as no wetland scientist report. St. Martin stated we need to continue or close. Folsom stated we should continue the hearing to give the applicant the opportunity to provide the information. Travinski, Eaton and Safin agreed to continue the public hearing to fulfill the requirements of 7.6. The public hearing will continue to June 4, 2008 at 6:30 p.m. Here at the Town Hall. Held asked about a formal site walk. St. Martin stated that most members have already been on the property. St. Martin asked for anyone wishing to speak in favor of the application. There were none. St.

Martin asked for anyone wishing to speak against the application. There were none.

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

SEAT AN ALTERNATE AS NEEDED – None.

ITEMS TO BE ADDED TO AGENDA – None.

**PENDING APPLICATIONS:**

1. **Quiet Corner, LLC, 202 and 228 Searles Road**, proposes to construct two wetland crossings providing access to the property from Searles Road and Cooney Road. Marshall Eaton started to make a motion. There was no second. John Folsom then made a motion as stipulated in the attachment of James Rabbitt. Marshall Eaton seconded. Paul Safin recused himself. John Folsom withdrew the motion. Marshall Eaton seconded. The commission seated John Bergandahl for this application. John Folsom motioned to approve the northern wetlands crossing from Cooney Road and to deny the southern wetlands crossing from Searles Road in the application submitted by Quiet Corner, LLC for property owned by Robert E. and Sylvia M. Miller and Barrett Brook Associates at 202 and 228 Searles Road, Pomfret, CT for the following reasons.
  1. In accordance with Section 22a-41 of the Connecticut General Statutes and Section 10.2 of the Commission’s regulations, the Commission is entitled to consider, among other things:
    - a. “irreversible and irretrievable loss of wetland or watercourse resources which would be caused by the proposed regulated activity, including the extent to which such activity would foreclose a future ability to protect, enhance or restore such resources;” and
    - b. “future activities associated with or reasonably related to, the proposed regulated activity which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses.”
  2. Although the applicant has submitted conceptual plans for a potential future subdivision development, it has not actually sought approval of those plans, indicating that it wishes, first, to see whether its current, limited application would be approved. The applicant’s representatives also indicated that the applicant was prepared to accept a condition prohibiting the construction of the crossings until such time as a full development plan was approved for the property [lot #002.02 (135.53 acres) and #002.00 (14.5 acres)] upon submission of a later application to the Commission.
  3. The Commission finds that it cannot reasonably apply the statutory and regulatory criteria mentioned above in the absence of a plan showing why the two currently proposed crossings are necessary, why they would be the most prudent for future development, and what the long-range impacts of such future development would be. Depending upon the final plan submitted to the Commission for approval, the Commission could

reasonably find that only one crossing is necessary, or that a smaller or differently formulated crossing would be more prudent.

4. The Commission finds that, regardless of the ultimate development of the interior of the parcels, it would be reasonable to provide an opportunity for vehicular access into the interior by at least one crossing, and that, of the two proposed crossings, the Cooney Road crossing would have the least impact on wetlands and watercourse resources. In the opinion of the Commission, this represents a feasible and prudent alternative to approving the creation of two crossings over Barrett Brook at this time to access lot #002.02. The Commission has evaluated each proposed crossing and chooses to permit the crossing with less wetlands disturbance and associated impact (e.g., tree canopy removal in and around wetlands as well as upland impact and habitat disturbance). The Commission finds that a feasible and prudent alternative exists and is reflected in the above motion that would reduce adverse impacts to the Inland Wetlands and Watercourses of the Town of Pomfret.

Pomfret Inland Wetlands and Watercourse Commission members have attended the three public hearings, reviewed the reports or exhibits, and have been present during deliberations particularly on March 5, April 2 and May 7, 2008. After consideration of the application materials and their own Regulations, members hereby APPROVE the Quiet Corner, LLC, 202 and 228 Searles Road application for the northern watercourse crossing over Barrett Ledge Brook and the associated roadways and storm water collection and water quality measures from Cooney Road to station 8+50, as illustrated on the CME Associates, Inc. drawings entitled ***Wetland Crossings Prepared for Quiet Corner, LLC dated November 14, 2007: Revised: January 8, 2008*** consisting of Sheets 1-18A with the following **CONDITIONS OF APPROVAL:**

1. Final plans shall be revised to conform to the final comments of the Commission's consulting Town Engineer and the Town Planner and to the satisfaction of the Commission's consulting Town Engineer and the Town Planner. These comments are technical in nature and do not substantially alter the application with regards to the northern crossing.
2. The applicant will undertake none of the work approved pursuant to this application until plans for a development requiring the use of the crossing are submitted to and approved by this Commission and by any other required Town officials or land use boards or commissions.
3. Final construction erosion and sedimentation control plans shall be provided for review and approval by Town Engineer and Town Planner prior to a pre-construction meeting, which meeting shall be conducted before there is any disturbance of the site;
4. The applicant shall provide evidence of any required registration with the Connecticut Department of Environmental Protection general permit program for construction sites before there is any disturbance of the site;
5. The applicant shall submit a Conservation Easement Agreement consistent with Appendix B of the Pomfret Inland Wetlands and Watercourses Regulations, as revised. The Conservation Easement Agreement shall be reviewed and approved by the Commission's attorney.

6. A wetlands or soil scientist shall be designated as an on-site erosion and sedimentation control inspector, who shall inspect and monitor both initial installation and periodic maintenance of the measures for erosion and sedimentation control. Inspections shall be conducted at least weekly and following any rain event. Inspection reports shall be submitted to the Wetlands Enforcement Officer at least weekly. The erosion and sedimentation control inspector shall be compensated by the applicant, but the person to be designated shall be subject to the approval of the Wetlands Enforcement Officer. If the erosion and sedimentation control measures indicated on the approved plans shall prove inadequate during or following construction, the Wetlands Enforcement Officer may order additional or different measures as may be required.
7. The applicant shall provide the mitigation measures by way of tree plantings on the easterly side of Barrett Ledge Brook as illustrated on CME Associates, Inc. **Site Development Plan**, Sheet 3, dated 1/16/2008; revised 3/05/2008. Before undertaking the mitigation measures the applicant shall submit a plan of mitigation to the Town Planner which shall include the number, location, species of tree(s) to be planted and breast height diameter (BHD) of the trees to be planted for review and approval. Upon completion of these mitigation measures, the applicant shall submit an as-built drawing of the mitigation measures completed to the Town Planner for inspection and verification.
8. The foregoing approval of the one watercourse crossing shall not be construed to constitute either an express or implied approval of any further watercourse crossings or wetlands effects on the balance of the property. Such approval shall only be forthcoming if the applicant establishes to this Commission's satisfaction in the submission of subsequent development plans (1) that a reasonable analysis of feasible and prudent alternatives has been undertaken by the applicant; (2) that the selected alternative meets all of the regulatory requirements of this Commission; and (3) that the selected alternative will not likely result in any significant impacts to watercourses and wetland areas.
9. Surety shall be required that is satisfactory to Town Staff to rectify erosion and sedimentation controls or mitigation.

There was discussion about the application as to the number of crossings, number of house lots, the cost of the bridge, bonding requirements, tree plantings, the northern crossing, modification of the entire development plan, why approve this at all as we don't understand what the long range plan of development is going to be, more prudent options, the future application, and impact. John Folsom amended his motion to contain condition 9 for bonding requirements.

Marshall Eaton seconded the modified motion (from 8 -9 conditions). Roll Call vote was as follows: John Folsom, yes; Marshall Eaton, yes; James Rowley, yes; Joseph Stoddard, yes; Joseph Travinski, yes; John Bergandahl, yes; David St. Martin abstained. Motion carries.

2. **Claudia and William Abbott, Angel Road**, to construct access crossings for a 2-lot resubdivision. This application is in public hearing. The public hearing was continued to the June 4, 2008 meeting
3. **Connecticut Audubon Society, 218 Day Road**, Proposed construction of a new educational center in place of existing barn, with driveway, parking, septic system and well. Terry Chambers was here tonight from KWP. He described the revised plans. There was discussion about splitting the driveway into two narrower ones. They did go from 24' – 18' because they need room for the occasional bus. Gould asked about the well. Chambers discussed the pedestrian entry way, shift to the north, and added underground propane tank. Rabbitt stated that he has looked at the revised driveway and plan. St. Martin asked about spaces for bus parking. There was discussion about entering to the left. Marshall Eaton made the motion to approve the application with the 10 conditions as submitted to the commission by James Rabbitt. Motion to approve the application for an educational facility at 218 Day Road with the following conditions:
  1. All costs associated with the review and processing of the application are paid in full by the applicant prior to any construction activities.
  2. The Town's Inland Wetlands and Watercourse Agency is contacted one week in advance of any planned activity on the site relating to the application. A preconstruction meeting shall be held with town staff (i.e., Planner, Engineer) prior to any construction, tree clearing, grading and/or excavation activity at the site.
  3. All erosion and sediment control is installed on site and inspected prior to any grading and or excavation activities and maintained per the plans.
  4. Limits of ground disturbance are clearly shown on the plans.
  5. DEP Best Management Practices are followed.
  6. All loam/topsoil shall remain on the site until a final as-built for the site is approved by staff with regards to compliance with the approved plans.
  7. A note shall be added stating that all plantings shown on this plan shall be maintained in healthy growing conditions shall be maintained in good physical and aesthetic condition throughout the life of the use. Vegetation, not so maintained shall be replaced with new materials no later than the beginning of the following growing season.
  8. The applicant shall make available an initial \$2000.00 for inspections with the Town of Pomfret to be used to pay the cost to oversee project development at the site regarding conformance with the approved site plan. The applicant shall be responsible for the actual costs associated with and inspection to insure conformance with the approved site plan. All costs shall be paid prior to the release of any surety posted for the project. If the cost of inspections exceeds the initial deposit, funds shall be withdrawn from the applicant's surety.
  9. The applicant shall make available a surety in the amount of \$20,000.00 shall be posted with the Town of Pomfret prior to any construction, grading and/or excavation activity at the site for soil and erosion control measures. In addition to the \$20,000.00 surety, \$5,000.00 in cash (bank check) shall be given to the Town of Pomfret and held as an emergency contingency

- fund. The type of the final surety shall be reviewed and approved by the Planning and Zoning Commission's legal counsel. The Planning and Zoning Commission surety may be held in concert with the Inland Wetlands Commission's required surety upon receipt of written confirmation from the applicant that the funds may be withdrawn by either entity for permit compliance (i.e. Inspections, stabilization, closure and/or enforcement).
10. Final as-built shall be submitted to the Town to determine compliance with the approval plans. As-built shall include final grades and drainage. As-built shall be reviewed for conformance to approved site plan before any surety is released. As-built may include additional information deemed necessary by town staff to determine compliance with approvals. Joe Stoddard seconded. Paul Safin abstained. Approved unanimously.
4. **Bruce and Donna Smith, 133 Clapp Road**, construction of single family house, well and septic system. Driveway will require crossing a small stream. This application is in public hearing.

CITIZEN'S COMMENTS – None.

#### NEW APPLICATIONS:

1. **Hull Forest Products, Inc. – Eric Johnson, 422 Brooklyn Road**, timber harvest. Eric Johnson was present to discuss the application. There will be a bridge over Blackwell Brook. Everything is flagged. Rabbitt to do a site walk. Rabbitt has permission to grant a jurisdictional ruling if site walk supports that decision.
2. **Brian Riendeau, 172 and 211 Taft Pond Road**, timber harvest. Riendeau was present to discuss the application. There is a 19 acre piece that needs microburst cleanup; pine blew over across the road. Rabbitt to do a site walk. Timber is marked, double slash in blue. Rabbitt has permission to grant a jurisdictional ruling if site walk supports that decision.
3. **Timothy McNally, 60 Chase Hill Road**, timber harvest. McNally was present to discuss the timber harvest. Cleanup for microburst, thinning harvest, logged in '78, three thinning plans and Mike Bartlett added a fourth plan. St. Martin stated there were 6 crossings of wetlands. Staff to go out and make a site walk. Rabbitt has permission to grant a jurisdictional ruling if site walk supports that decision.

Moved up from end of Agenda. Tim McNally has been working with Rabbitt to allow a forestry registry. Tim handed everyone a plan. St. Martin asked for a motion to look at this at the end of New Business. Paul Safin made the motion. Jim Rowley seconded. Approved unanimously.

4. **Pomfret Fire Department, 67 Hampton Road**, 3 dry hydrant installations. Scott Davis was present to discuss the project. DEP has approved the project and needs local approvals. Three different sites, 1 at

Loos, Benway, and Nightingale. DOT approval is needed also. The Town of Pomfret is doing the work and the grant needs the work to be done by 11-9-08. Davis said they are working with KWP for the Nightingale Brook site because of the dam. Davis asked for a jurisdictional ruling to be granted. St. Martin stated that the Loos and Benway site would probably receive a jurisdictional ruling but the Nightingale Brook is more detailed because of the dam. The application was modified to include the Town of Pomfret as the co-applicant.

- 5. Hull Forest Products, 325 Wrights Crossing Road**, timber harvest. Eric Johnson was present to discuss the application. There will be two crossings with corduroy. Staff needs to review. There was discussion about the conservation easement on the property. Rabbitt stated that we didn't require it on the rear portion, just around the pond. Folsom asked to check the records on that. Johnson stated that you can't do any timber harvesting in a conservation easement. Jim Rivers stated that within the easement language they can ask for relief. The main provision for wood is deadfall removal. Folsom stated that we do modify the easement language. Rabbitt stated that the easement is in the area associated with the pond. Remove invasive species, dam and spillway, to maintain dam. Johnson stated that we need to look at it. A sitewalk will be scheduled.

#### NON-FEE APPLICATIONS:

**Town of Pomfret, 576 Hampton Road**, bog bridges are proposed for 3 sites along the blue trail at the Pomfret Recreation Park.

**Town of Pomfret, 576 Hampton Road**, dugouts are proposed for the basketball field which were part of the original application.

#### NOTICES OF VIOLATION/CEASE AND DESIST ORDERS:

- 1. Roger Daigle, 193 Putnam Road**, Cease and Desist. 10/4/07. Nothing new to report. Letter to be sent requesting application.
- 2. CT Real Estate Holdings, LLC, 195 Searles Road**, Cease and Desist in effect as of March 16, 2005. Certificate of Notice of Violation placed on the land records on May 19, 2006. (Gravel Extraction). Leave on the agenda until complete restoration is done. Nothing new to report.
- 3. Marc Tufts, 85 Searles Road**, gravel extraction and work in the regulated area. Application approved on 3/06. Rabbitt to check in spring. He planted trees on the south side. Brais to do inspection.
- 4. JASD, Orchard Hill Road**, work in regulated area. NOV issued 11/4/05. Nothing new to report.
- 5. Seth Fortier, 194 Covell Road**, new driveway and vernal pool. 10/05 The driveway needs to come out to Covell Road and the surface treatment needs to be done. Site is stable. We are waiting for him to finish out to the road. Nothing new to report.

**JURISDICTIONAL RULINGS:**

**Judy's Kitchen DBA Pete's Drive In, Judy L. Laliberte and David Buchholz, Jr., 405 Mashamoquet Road**, addition to building on slab (concrete). A jurisdictional ruling is requested. Rabbitt stated that he reviewed that application and no silt fence is needed, no mechanized equipment will be allowed in the area of the pond to remove invasives and plant shrubs.

**PRIOR APPLICATIONS WITH CONDITIONS:**

1. **Donna Gauthier, 2 Clapp Road**, single-family home. 11/03. Nothing new to report. Nora Johnson asking about surety release. Nothing new to report.
2. **John Gagne, 61 Wade Road**, single-family home and reclamation. 9/04 extension granted 9/09. May get release in the spring 2008. Buttoned up. Nothing new to report.
3. **Mark Blakely, 138 Longmeadow Drive**, single-family home. 2/06. Nothing new to report.
4. **Shane Pollock, Swedetown Road**, single-family home. 6/06 Nothing new to report.
5. **Great Woods Companies, 34 Wetherbee Road**, timber harvest. 8/07. Nothing new to report.

**SUBDIVISIONS APPROVED BY PLANNING AND ZONING:** 23 Woods Hill Road, 1-lot subdivision was approved.

**COMPLAINTS/CONCERNS RECEIVED BY THE COMMISSION:** A letter was received by the Selectmen and Commission about the Property on Mashamoquet Road. Steve Tesstatori, DEP, responded to this commission in writing as a cc to the Blanchettes. Safin asked about the timber harvest on 181 Orchard Hill. There is rutting on the skidder trail. He asked that an inspection be done.

**CITIZEN'S COMMENTS:** None.

**EXTENSIONS REQUESTED:**

1. **Rectory School Recreational Fields, Route 44**, current permit expires March 2009. Marshall Eaton made the motion to move this up on the agenda. Joe Stoddard seconded. Approved unanimously. Scott Young from CME was present to discuss the request. He stated that the project was started in 2004 and the permit will expire in 2009 (5 years). They are asking for an extension of this permit. There was discussion about what was approved and the minutes/conditions were read into the record. Rabbitt stated that our regulations approve applications for 5 years maximum. The only avenue is to reapply. We will table this item for further review. There was discussion about the water monitoring of the property.

**COMMISSION BUSINESS:**

1. Report of Regulations Standing Committee – Final Draft of the regulations for discussion and possible approval. Rabbitt stated he had comments from Attorney Zizka. He will forward them to the clerk for next month's meeting.
2. Report of subcommittee on Registry. Meeting on Tuesday 5-20-08 at the Town Hall at 7:00 p.m.
3. Updates and Report from WEO and Commission Members: None.
4. Approval of the April 2, 2008 Minutes. John Folsom made the motion to approve the minutes as presented. Joe Travinski seconded. Approved unanimously. Safin abstained.
5. Report of billing, and bond releases – no new requests. Moseley/Davies requested bond release.
6. Correspondence – was gone through. McNally spoke about the subcommittee for the forestry registry. There was discussion about active management vs. development. Simplifying the application, reduce paperwork and fees. This process would clear the agenda and the workload of the clerk.
7. As needed – Lussier lawsuit is on hold

**ADJOURNMENT** Joe Stoddard motioned to adjourn. Joe Travinski seconded. Approved unanimously.

Respectfully submitted,

Betty Morin, Clerk