

COLCHESTER CONSERVATION COMMISSION
PUBLIC HEARING
Regular Meeting To Follow
Wednesday, July 12, 2017
Town Hall, 127 Norwich Avenue, Room 1
Minutes of Meeting

MEMBERS PRESENT; Darrell York, Vice Chairman; Moe Epstein, Sue Bruening and Andrew George; Alternate: Rebecca Meyer; Board of Selectmen Liaison, John Jones; Staff: Jay Gigliotti, Wetlands Enforcement Officer; Gail Therian, Clerk;

MEMBERS ABSENT: Falk von Plachecki, Chairman; Alternate: Ericka Fuery

A. OPEN PUBLIC HEARING

- A. **W2017-3010**- Stephen Fedus- applicant/ owner- 203 Amston Road (Route 85), Assessor's Map 21-00 Lot #003-000- proposed residential apartment buildings, parking and drainage facilities, activity within wetlands URA.

Vice Chairman York opened the continuation of the Public Hearing at 7:00 p.m.

J. Gigliotti read the additional items Q – the Public Hearing Continuation Notice.

Mark Reynolds, P.E., representing the applicant, explained the location of the wetlands and the proposed drainage system. He showed the Commission the location of the existing sewer and water lines, the proposed design of the development and explained the proposed landscaping plan. He said that there will be a single entrance to be used for both entering and exiting the property. He said that the plan he was using was a "progressive" plan and that revised plans will be submitted for Staff review before the next meeting. Discussion followed regarding the retention area and the drainage pattern.

Speaking in Favor - No one spoke

Speaking in Opposition – No one spoke

Motion by M. Epstein, seconded by S. Bruening to accept the extension for W2017-3010. **Motion carried unanimously**

Motion by M. Epstein, seconded by A. George to continue the Public Hearing to the August 9, 2017 meeting. **Motion carried unanimously**

B. CALL REGULAR MEETING TO ORDER

Vice Chairman York called the Regular Meeting to order at 7:33 p.m.

C. ADDITIONS TO AGENDA –

J. Gigliotti asked that under Item G – "New Applications" Item A – "W2017-3015 84 Waterhole Road, Caring Community of CT, Inc., Assessor's Map 03-20 Lot 017-001, Proposed 90' x 54' Greenhouse within the Upland Review Area" be added to the agenda.

So moved, by A. George, seconded by R. Meyer to add this item to the agenda. **Motion carried unanimously.**

D. APPROVAL OF MINUTES – Meeting Minutes of June 14, 2017

Motion by A. George, seconded by S. Bruening to approve the Minutes of the June 14, 2017 meeting as written.

Abstentions: M. Epstein and R. Meyer All others in favor **Motion Carried unanimously.**

E. PUBLIC COMMENT –

Brian Mandeville, 68 Mill Lane West, submitted documentation and written comments regarding the 82 Davidson Road enforcement. Copy attached.

Vice Chairman York told Mr. Mandeville that he should meet with Staff to discuss his concerns and if deemed appropriate this would be an item for discussion on an upcoming Conservation Commission meeting agenda.

RECEIVED
COLCHESTER,
17 JUL 13 PM 2:15
GAYLE FURMAN
TOWN CLERK

F. PENDING APPLICATIONS –

- A. **W2017-3010**- Stephen Fedus- applicant/ owner- 203 Amston Road (Route 85), Assessor's Map 21-00 Lot #003-000- proposed residential apartment buildings, parking and drainage facilities, activity within wetlands URA.

Motion by A. George, seconded by S. Bruening to table W2017-3010 to the August 9, 2017 meeting. **Motion carried unanimously.**

G. NEW APPLICATIONS –

- A. **W2017-3015** 84 Waterhole Road, Caring Community of CT, Inc., Assessor's Map 03-20 Lot 017-001, Proposed 90' x 54' Greenhouse within the Upland Review Area"

J. Gigliotti told the Commission that this application is for a 90' x 54' greenhouse with a portion of the greenhouse in the Upland Review Area. The two existing greenhouses will be replaced with one new greenhouse. There is no foundation required. No Staff reviews have been conducted as of this time.

Motion by M. Epstein, seconded by R. Meyer to accept application W2017-3015. **Motion carried unanimously.**

G. Meadows of Caring Community of CT, Inc. asked the Commission if a Special meeting can be held after the 15 days statutory requirement is met so that construction of the greenhouse could be completed before the winter weather. J. Gigliotti will conduct a poll of the members to see if there is an available date to hold a Special meeting.

Motion by M. Epstein, seconded by S. Bruening to table W2017-3015 for statutory requirements. **Motion carried unanimously.**

H. OLD BUSINESS – None

I. NEW BUSINESS – None

J. ENFORCEMENTS – None

K. CONSERVATION – None

L. CORRESPONDENCE

J. Gigliotti distributed copies of "The Habitat" to the Commission members.

M. ADJOURNMENT

Motion by S. Bruening, seconded by A. George to adjourn the meeting at 7:57 p.m. **Motion Carried Unanimously**

Gail N. Therian, Clerk

Brian R. Mandeville
68 Mill Lane West
Colchester, CT 06415-1612

July 12, 2017

NOTE: The following information was hand delivered to the Colchester Conservation Commission at their July 12th 2017 meeting and is intended to be entered into the Meeting Minutes under Section E. Public Comment.

Subject: U.S. Army Corps of Engineers letter 11/09/2016 & written public comments from Brian R. Mandeville for the Conservation Commissions record meeting minutes.

1. BRM hand delivered a copy of U.S. Army Corps of Engineers letter and attachments dated 11/09/2016. The letter was addressed to Curtis & Mary Hatch, 82 Davidson Road, Colchester, CT and copied to Colchester Wetlands Enforcement Officer Jay Gigliotti.
2. BRM stated that paragraph 2 of the aforementioned letter said that "The unauthorized fill consisting of both soil and concrete sidewalk slabs, shall be removed no later than March 1, 2017, to the boundary shown on the attached, Figure1."
3. BRM further stated that paragraph #2 also outlines the detailed restoration of the disturbed area, no later than March 15, 2017 and the photographic report of the restoration activities no later than April 30, 2017.
4. BRM stated that paragraph #3 indicates U.S. ACE will defer oversight of the restoration to Jay Gigliotti, Town of Colchester Wetlands Enforcement Officer.
5. BRM asked Conservation Commission Members why they have been ignoring this Federal Order with no written explanation for the public record or Conservation Commission Meeting Minutes. BRM ask the CCC if a letter of non-conformance has been sent the residents at 82 Davidson Road regarding U.S. ACE's restoration order.
6. BRM asked the Conservation Commission Members if there was any legal actions and / or activities involving the Town of Colchester regarding this unauthorized wetlands filling matter.
7. BRM handed the Conservation Commission a copy of Conservation Commission FAQs, page #1 and inquired if there was an active permit at 82 Davidson Road for activities within the Upland Review Area. BRM stated there were current activities within the URA at 82 Davidson Road, North of Gillette Brook and South of the residence. No silt fence protection has been installed in the URA work area as of this date.



DEPARTMENT OF THE ARMY
US ARMY CORPS OF ENGINEERS
NEW ENGLAND DISTRICT
696 VIRGINIA ROAD
CONCORD MA 01742-2751

November 9, 2016

Regulatory Division
CENAE-R-PEB
File Number: NAE-2016-02352

Curtis & Mary Hatch
82 Davidson Road
Colchester, CT 06415

Conservation
Commission
Copy

SRG
11/15/16

Dear Mr. & Mrs. Hatch:

Thank you for meeting with the U.S. Corps of Engineers and Town of Colchester officials on July 14, 2016 to discuss unauthorized impacts to wetlands associated with an unnamed tributary to Gilletts Brook on your property at 82 Davidson Road in Colchester, Connecticut. We appreciate your cooperation and assistance to our agency in resolving this matter. The purpose of this letter is to summarize our understanding of the status of the activity at the address identified above, to specify recommended voluntary restoration requirements and to outline our intent to defer oversight for removal of the fill and restoration of the wetland area to the Town of Colchester.

During the aforementioned meeting, you indicated that you performed the filling/grading work on your property and that you would be willing to remove the 6 to 8-inches of fill and the concrete sidewalk slabs placed within the wetland area and dispose of it in an upland location. We thank you for your compliance with this issue and include the following provisions:

- The unauthorized fill consisting of both soil and concrete sidewalk slabs, shall be removed no later than March 1, 2017 to the boundary shown on the attached, Figure 1.
- The soil (fill) and slabs will be removed with a bobcat type backhoe or other non-intrusive means that will not result in the placement of machinery within the undisturbed wetland area.
- The impacted area will be revegetated with a wetland seed mix containing only native species and mulched with straw (not hay) no later than March 15, 2017.
- A brief photographic report shall be submitted to this office following the completion of restoration activities no later than April 30, 2017.

If you concur with the proposed restoration please sign the attached concurrence and return to my staff at the address above. Upon receipt of the concurrence, we will close our enforcement file as it relates to the violation at the above-mentioned subject site and defer oversight of the voluntary restoration to the Jay Gigliotti, Wetlands Enforcement Officer from the Town of Colchester. Failure to follow through with the restoration requirements in a timely fashion will result in the Corps reinstating active enforcement status at this site per 33 Code Federal Regulations Section 326.3.

You have been made aware that the above described activity was a violation of Federal regulations. Please note that any future activities you authorize or undertake that are in violation of our regulations will be considered willful and subject to legal action.

Your agreement to undertake timely removal of the unauthorized fill in accordance with the above provisions from the impacted wetlands under the oversight of the Town of Colchester will satisfactorily address our concerns and eliminate current and future detrimental impacts to the satisfaction of the District Engineer.

If you have any questions, please contact Mike Wierbonics of my staff at (978) 318-8723.

Sincerely,



Robert J. DeSista
Chief, Permits & Enforcement Branch
Regulatory Division

Enc. JD Fact Sheet

Attachment, Figure 1 – Aerial Extent of Fill to be Removed

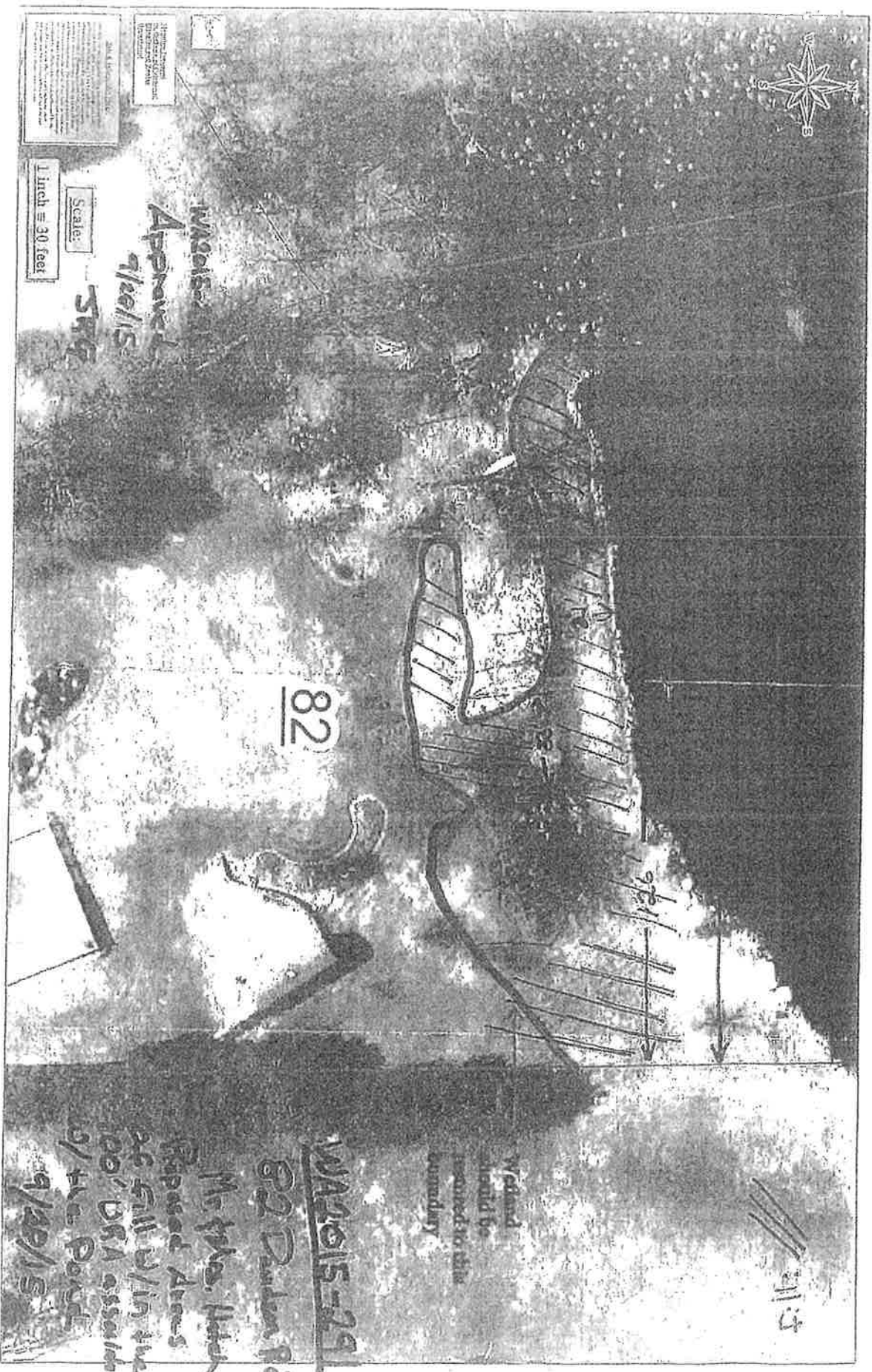
Copies Emailed:

CT DEEP
Bureau of Water Management
Land and Water Resources Division
ATTN: Robert Gilmore
79 Elm Street
Hartford, CT 06106-5127

CT DEEP
Land and Water Resources Division
Enforcement Bureau
ATTN: Dave Sattler
79 Elm Street
Hartford, CT 06106-5127

Town of Colchester
Wetlands Enforcement Officer
Attn: Jay Gigliotti
Town Hall, 127 Norwich Avenue
Colchester, CT 06415

Figure 1. Aerial Extent of Fill to be Removed





DEPARTMENT OF THE ARMY
US ARMY CORPS OF ENGINEERS
NEW ENGLAND DISTRICT
696 VIRGINIA ROAD
CONCORD MA 01742-2751

VOLUNTARY RESTORATION CONCURRENCE FORM

FILE NAME: 82 Davidson Road, Colchester, CT

FILE NUMBER: NAE-2016-02352

We, Curtis and Mary Hatch, agree to undertake the voluntary measures listed below to bring the work, with impact to waters and/or wetlands, at 82 Davidson Road, Colchester, Connecticut into compliance with Section 404 of the Clean Water Act. The work will be undertaken in accordance with the Restoration Measures listed below.

Curtis Hatch

Mary Hatch

DATE

RESTORATION MEASURES:

- The unauthorized fill consisting of both soil and concrete sidewalk slabs, shall be removed no later than March 1, 2017 to the aerial extent shown on the attached, Figure 1.
- The soil (fill) and slabs will be removed with a bobcat type backhoe or other non-intrusive means that will not result in the placement of machinery within the undisturbed wetland area.
- The impacted area will be revegetated with a wetland seed mix containing only native species and mulched with straw (not hay) no later than March 15, 2017.
- A brief photographic report shall be submitted to this office following the completion of restoration activities no later than April 30, 2017.

Submit to:

**U.S. Army Corps of Engineers
NAE Regulatory Division
Permits & Enforcement
ATTN: Mike Wierbonics
696 Virginia Road
Concord MA 01742**



US Army Corps
of Engineers

What are the Limits of the Corps Jurisdiction?

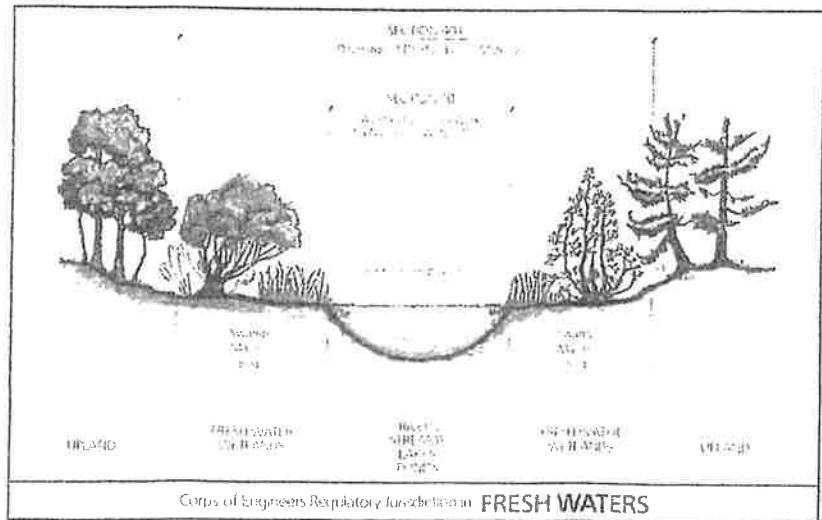
The Corps regulations broadly define two important terms, "waters of the United States" for the purpose of Section 404 of the Clean Water Act; and "navigable waters of the United States" for Section 10 of the Rivers and Harbors Act.

Waters of the United States

The definition of "waters of the United States" includes the following:

- a. Navigable waters of the United States.
- b. Wetlands.
- c. Tributaries to navigable waters of the United States, including adjacent wetlands and lakes and ponds.
- d. Interstate waters and their tributaries, including adjacent wetlands.
- e. All other waters of the United States not identified above, such as isolated wetlands, intermittent streams, and other waters that are not part of a tributary system to interstate waters or to navigable waters of the United States, where the use, degradation or destruction of these waters could affect interstate or foreign commerce.

Section 404 of the Clean Water Act defines the landward limit of jurisdiction as the high tide line in tidal waters and the ordinary high water mark as the limit in non-tidal waters. When adjacent wetlands are present, the limit of jurisdiction extends to the limit of the wetland.



Created: July 2012

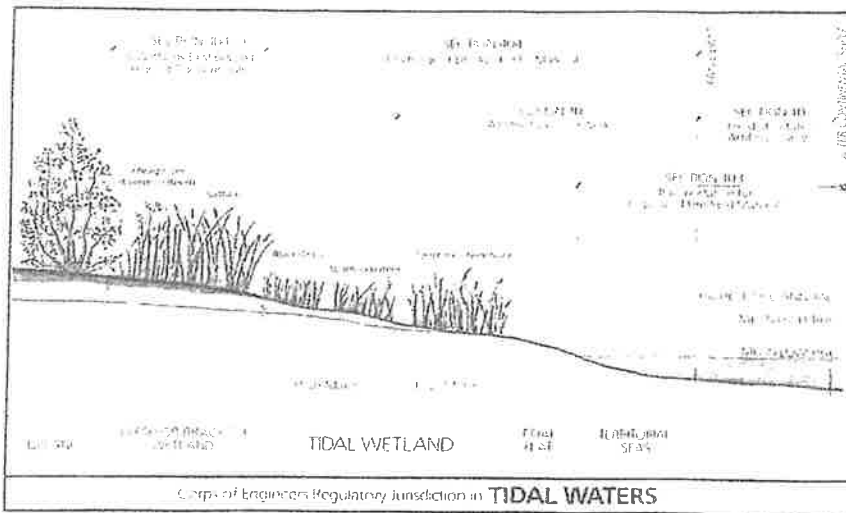
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696 Virginia Road, Concord, MA 01742-2751
website www.nae.usace.army.mil

Navigable Waters of the United States

This term includes the oceans and navigable coastal and inland waters, lakes, rivers, and streams. Corps jurisdiction extends shoreward to the mean high water line.

The Corps general definition of navigable waters of the United States is "those waters subject to the ebb and flow of the tide shoreward to the mean high water mark and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. A determination of navigability, once made, applies laterally over the entire surface of the waterbody, and is not extinguished by later actions or events which impede or destroy navigable capacity."



Within the New England District, the Corps has determined the following to be navigable waters of the United States:

Maine: All tidal waters and their tributaries to the head of tide; Kennebec River to Moosehead Lake; Penobscot River to the confluence of the East and West Branch at Medway; Lake Umbagog within the state of Maine.

New Hampshire: All tidal waters

and their tributaries to the head of tide; Merrimack River from the Massachusetts-New Hampshire state line to Concord; Lake Umbagog within the state of New Hampshire; Connecticut River to Pittsburg.

Vermont: Lake Champlain; Lake Memphremagog; many rivers.

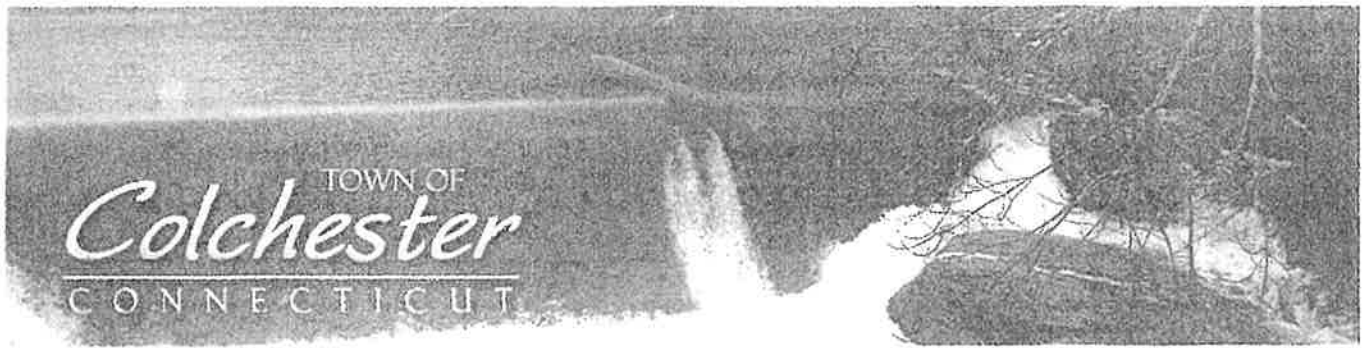
Massachusetts: All tidal waters and their tributaries to the head of tide; Merrimack River to the New Hampshire state line; all of the Connecticut River within the state of Massachusetts.

Connecticut: All tidal waters and their tributaries to the head of tide; Connecticut River to the Massachusetts state line.

Rhode Island: All tidal waters and their tributaries to the head of tide.

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Conservation Commission FAQs

Printer-Friendly Version

When would I ever need a wetlands permit?

What is a Watercourse?

What types of wetland permits are available?

How do I know if there are wetlands on my property?

Where can I get information about the Conservation Commission

I have an area marked "Conservation Easement" on my property. What can I do there?

What are wetlands?

I need to replace my septic system and the system is within a wetland

What is a Conservation Easement?

Where can I find out about the wetland regulations?

Can I put a fence through the wetlands?

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Search input field with GO button



Town of Colchester Prescription Drug Discount Program

Q: When would I ever need a wetlands permit?

A: Any activity within wetlands, or within the Upland Review Area-75' from wetlands or 100' from a watercourse- requires a permit. For homeowners, this often means a shed or an addition to the house. For activities within the Upland Review Area which will have only a minimal wetlands impact there is an expedited administrative process for issuance of permits. For activities which affect wetlands directly the Conservation Commission must issue the permit. Clearcutting-which is cutting all of the trees in an area-also requires a permit.

Q: What are wetlands?

A: Wetlands are defined as Land, including submerged land, not regulated pursuant to sections 22a-28 through 22a-35, inclusive of the Connecticut General Statutes, which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial and floodplain by the national cooperative soils survey, as may be amended from time to time, of the National Resources Conservation Service of the United States Department of Agriculture. Such areas may include filled, graded, or excavated sites which possess aquic (saturated) soil moisture regime as defined by the USDA Cooperative Soil Survey

Q: What is a Watercourse?

A: Rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs and all other bodies of water, natural or artificial, vernal or intermittent, public or private, which are contained within, flow through or border this state or portion thereof, not regulated pursuant to Sections 22a-22a35, inclusive of the Connecticut General Statutes. Intermittent watercourses shall be delineated by a defined permanent channel and bank and the occurrence of two or more of the following characteristics: (A) evidence of scour or deposits of recent alluvium or detritus, (B) the presence of standing or flowing water for a duration longer than a particular storm incident, and (C) the presence of hydrophytic vegetation.

Q: I need to replace my septic system and the system is within a wetland buffer, do I need a wetlands permit?

A: Yes, anytime you are working in the regulated area, no matter what you are doing, you will need a wetlands permit.

Q: What types of wetland permits are available?

A: There are two types of wetlands permits that are offered. The first is called an administrative permit. This permit is approved on the basis that the Wetlands Enforcement Officer deems the regulated activity to have a minimal impact. This permit application is an expedited process to help the flow of applications move along. The second is