

**TOWN OF EAST WINDSOR
INLAND WETLANDS WATERCOURSE AGENCY**

Regular Meeting – November 3, 2010

******* Draft Document subject to Commission Approval *******

CALL TO ORDER: Chairman Ceppetelli called the Meeting to order at 7:00 p.m. in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT.

ESTABLISHMENT OF QUORUM:

Present: Regular Members Michael Ceppetelli (Chairman), John Malin, Richard Osborn, Ronald Savaria, Michael Sawka, Robert Slate, and Alternate Members Alan Baker, and Ronald Hocutt.

Unable to Attend: Regular Member Michael Koczera and Alternate Member Kathryn Roloff.

Guests: Selectmen Richard Pippin and John Burnham; Kathy Pippin, of the Board of Finance; Laurie Whitten, Town Planner

Chairman Ceppetelli noted the establishment of a quorum with six Regular Members and two Alternates. All Regular members will sit in on votes this evening; Alternate members will serve in rotation as needed. Also in attendance was Wetlands Agent/Zoning Enforcement Officer Robin Newton.

AGENDA ADDITIONS:

MOTION: To ACCEPT the Agenda Addition under **APPLICATIONS TO BE RECEIVED/1. Gerald Wilcox – Lots #5 Winkler Road - Regulated Activity – Construction of a Single Family Home within the 150' Upland Review Area. This property to be served by public water and private septic system. This property is located on the east side of Winkler Road nearest intersection being Borrup Road. Assessor's Map #7, Block #24, Lot #073-6. Total Parcel is .85 acres. (65 day application period ends January 7, 2011).**

Osborn moved/Slate seconded/VOTE: In Favor: Unanimous

(See additional AGENDA Addition under MISCELLANEOUS.)

APPROVAL OF MINUTES – October 6, 2010:

MOTION: To APPROVE the Minutes of Regular Meeting dated October 6, 2010 with the following amendments:

Page 1, Line #13, ESTABLISHMENT OF QUORUM, Present: “Regular members Michael Ceppetelli (~~Vice~~ Chairman),.....”

Page 4, Line #139, NEW APPLICATIONS TO BE RECEIVED/1. IWWA 10-2010 AND 2. IWWA 12-2010 East Windsor Cemetery Association, “LET THE RECORD SHOW Commissioner Osborn.....”

Page 5, Line #192, Same Applications, “Chairman Ceppetelli suggested a Public Hearing offers people THE OPPORTUNITY to come in and comment on proposals.”.....

Savaria moved/Osborn seconded/

VOTE: In Favor: Ceppetelli/Osborn/Savaria/Slate/Malin/Sawka/Baker

Opposed: No one

Abstained: Hocutt (absent from previous meeting)

NEW PUBLIC HEARING (on Inland Wetlands Applications): None

NEW BUSINESS/1. IWWA 10-2010 – East Windsor Cemetery Association –

Regulated activity associated with the installation of Driveway to Access Cemetery – This property is located on the North side of Cemetery Road nearest intersection being Scantic Road. Assessor’s Map #35, Block #32, Lot #19. Total Parcel is 26.5 acres. (65 day application period ends December 10, 2010):

Chairman Ceppetelli read the description of this Item of Business.

LET THE RECORD SHOW Commissioner Osborn stepped down from service; Alternate Commissioner Baker served in his place. Alternate Commissioner Hocutt sat in on this Application as well.

Appearing to discuss this Application was Jay Ussery of J. R. Russo & Associates, representing the Applicant. Also present was Dan Burnham, of 173 Tromley Road, East Windsor, CT. representing the Cemetery Association.

Mr. Ussery responded to comments (*which are shown in italics*) made by Wetlands Agent Newton under her memo of 10/27/2010 as follows:

- *The lack of information from the NDDB (Natural Diversity Data Base) concerning any species listed on the State and Federal Endangered or Species or Habitats of Special Concern.*

Mr. Ussery submitted letter dated 9/30/2010 from the State of Connecticut, Department of Environmental protection indicating “there are no known extant populations of Federal or State Endangered, Threatened or Special Concern Species that occur at the site in question.”

- *The lack of an Assessment Report concerning the impact of piping 92’ of an intermittent watercourse with associated fill activity which is a tributary to the*

Scantic River and the impact of 3 stream crossings along the same corridor within a relatively short distance to one another.

Mr. Ussery submitted letter dated 11/3/2010 from Michael Gragnolati (Soil Scientist) indicating his opinion “that the proposed crossing will have negligible impacts in the functionality of the wetlands and watercourse both up and down gradient of the crossing.”

- *The lack of information concerning cut and fill volumes for the construction of the road, specifically in the area of the watercourse and wetlands.*

Mr. Ussery indicated the cut volume will be 240 cubic yards while the fill volume will be 530 cubic yards of gravel and riprap being placed over and around the pipe.

Under the same memo dated 10/27/2010 Wetlands Agent offered two recommendations regarding prudent and feasible alternatives. Summarization of the recommendations are listed below (*listed in italics*), followed by Mr. Ussery’s referral of comments made by David Askew, of the North Central Conservation District.

- *Widen the existing driveway to accommodate two-way traffic roadway thereby lessening disturbance to the wetlands.*

Mr. Ussery indicated the entrance drive off Cemetery Road is currently approximately 8’ to 9’ wide and is immediately adjacent to the property line of the abutting (Tyler) property. This entrance is at the oldest part of the cemetery; graves are located right up to the edge of the driveway. The existing driveway has always been one-way access. There is really not enough room to widen this entrance; the intent is to provide another means of ingress/egress which would be 18’ wide to provide a passable width for emergency vehicles as is required under the Zoning Regulations.

- *Lessening the width of the proposed driveway, if proposed driveway is to connect to existing driveway then the Applicant should provide directional signage to promote one-way traffic around the cemetery.*

Mr. Ussery indicated they could reduce the width to 14’ or 15’ or 12’ but felt that the emergency services would prefer the wider width.

Chairman Ceppetelli suggested the reduced width would be cheaper for the Applicant; Mr. Ussery agreed. Chairman Ceppetelli questioned if the Applicant would be opposed to a width reduction? Mr. Dan Burnham indicated he would rather have the 18’ width for the emergency vehicles, and the vault trucks are large as well. He felt if the new road is built the “other” road would probably become a maintenance road.

**TOWN OF EAST WINDSOR
INLAND WETLANDS WATERCOURSE AGENCY
Regular Meeting – November 3, 2010**

4

Mr. Ussery indicated they did look at other locations for the access drive, but they would have been dealing with a 10% grade which would have been difficult to negotiate. He felt the proposed location would create the least amount of disturbance.

Mr. Ussery felt the only other alternative would be to NOT build the additional access; he felt NOT building the driveway was not an alternative.

Mr. Ussery noted comments made by Town Engineer Norton under his memo dated 11/3/2010. Discussion had occurred regarding soil and erosion control measures. David Askew (of NCCD) had suggested installation of a series of silt fence on the slope on the north side of the proposed driveway and installation of temporary check dams during the construction phase. Mr. Ussery indicated they have added hay bales to the plans. Mr. Ussery indicated Town Engineer Norton had requested installation of another similarly constructed check dam/silt fence configuration on the “up” side. He indicated the Applicant has no problem with that recommendation.

Commissioner Savaria noted Town Engineer Norton had also recommended the bituminous pavement be extended past the low point in the driveway. Mr. Ussery concurred, noting the culvert has been designed for a 10 year storm, which is the requirement for a roadway. There should NOT be any overflow in this area.

Commissioner Savaria questioned the adequacy of the proposed pipe size, as he had not seen any reference to same in Town Engineer Norton’s memo. Wetlands Agent Newton reported that Town Engineer Norton had reviewed the entire plan and the calculations as submitted; if there are no comments in his memo then he has no problem with the plans or calculations as submitted.

Commissioner Baker questioned what was the possibility of run off on either side of the road; how big is the “scour pad”? Mr. Ussery indicated it would be 10’ x 12’. He noted these areas will be 3:1 (mowable) vegetated slopes.

Chairman Ceppetelli questioned the amount of sand and salt used during the winter on the roadways; there are no catch basins proposed to prevent the sand and salt from entering the watercourse. Mr. Ussery indicated the cemetery is open in the winter; they would have to sand and salt during ice conditions. The roadway is tilted to the inside; run off will flow onto the grass slope and into the riprap spillway before entering the watercourse. Mr. Dan Burnham indicated they use little sand or salt; it’s a budget issue.

Wetlands Agent Newton noted Town Engineer Norton looks at the pre- and post-drainage calculations as well as the plans, and also the culvert size and peak flow during storm events; if he has not made comments in his memo on these issues then he has no problems with the plans and calculations as proposed.

MOTION: To APPROVE Application IWWA 10-2010 – East Windsor Cemetery Association for Regulated activity associated with the installation of Driveway to

Access Cemetery – This property is located on the North side of Cemetery Road nearest intersection being Scantic Road. Assessor’s Map #35, Block #32, Lot #19. Total Parcel is 26.5 acres – with the following conditions excerpted from Town Engineer Norton’s memo dated 11/3/2010:

- 1. Silt fence shall be placed on the south side of the driveway at the toe of the slope. Stone checks and diversions should be utilized on this steep portion of the driveway.**

- 2. The bituminous pavement be extended past the low point in the driveway to minimize the potential for erosion in this area.**

Savaria moved/Slate seconded/

**VOTE: In Favor: Ceppetelli/Savaria/Malin/Slate/Sawka/Baker
Opposed: No one
Abstained: Hocutt (absent from previous presentation)
(Osborn stepped down from service on this Application)**

NEW BUSINESS/2. IWWA 12-2010 – East Windsor Cemetery Association –
Regulated activity associated with a one lot subdivision and construction of a single family home. This property is located on the North side of Cemetery Road nearest intersection being Scantic Road. Assessor’s Map #35, Block #32, Lot #19. Total Parcel is 26.5 acres. (65 day application period ends December 10, 2010):

Chairman Ceppetelli read the description of this Item of Business.

LET THE RECORD SHOW Commissioner Osborn stepped down from service; Alternate Commissioner Baker served in his place. Alternate Commissioner Hocutt sat in on this Application as well.

Wetlands Agent Newton had reported that this Application is for the construction of a single family home, which will be served by a private well and a septic system. All activity for construction will occur in the Upland Review Area. Under her memo dated 10/27/2010 she has offered the following recommendations (*which are shown in italics*):

- *The area of clearing should be staked in the field and inspected by Town Staff prior to removal of any vegetation.*
- *Silt fence should be placed and inspected by Town Staff to ensure the least amount of disturbance possible in the area.*

Mr. Ussery indicated they have created one subdivision lot containing 5.5 acres; the dwelling would be located towards the front of the lot, with the septic system in the back in a sandy field. Testing has been completed by the North Central Health District (NCHD); approval has been granted for an on-site septic system and potable water. There will NOT be any wetlands disturbance. The closest distance from the corner of the house to the wetlands is 34’ to 35’. A drainage swale currently exists which runs into the watercourse; the drainage swale is dry in the Summer. There is some wetlands

**TOWN OF EAST WINDSOR
INLAND WETLANDS WATERCOURSE AGENCY
Regular Meeting – November 3, 2010**

6

vegetation towards the bottom of the slopes, but Mr. Ussery reported he didn't see any impact to the wetlands from this proposal. There is room on the lot for a storage shed to be constructed in the rear, although that component hasn't been shown on the plans.

Wetlands Agent Newton reiterated her recommendations; she requested these recommendations be added as conditions to the permit approval.

Mr. Ussery reported that this lot will NOT be accessed from the Cemetery.

Chairman Ceppetelli questioned that the Applicant was NOT proposing the area of wetlands to be put in a Conservation Easement? Mr. Ussery confirmed that there is NO Conservation Easement proposed. Chairman Ceppetelli questioned what assurance the Commission would have that the wetlands would not be filled in? Mr. Ussery suggested the area can be marked with medallions installed on a post every 50'. Chairman Ceppetelli suggested the medallions wouldn't keep a homeowner from doing anything in the wetlands area. Mr. Ussery felt the Conservation Easement wouldn't prevent any activity either. Chairman Ceppetelli clarified that the Conservation Easement goes on the Land Records. A homeowner could buy this property and not know the area of the wetlands is regulated; placement of the Conservation Easement on the deed is a notification to the buyer.

Commissioner Savaria indicated he would like to see a note placed on the plans. Chairman Ceppetelli pointed out that the first buyer would know of the wetlands area but a subsequent buyer would NOT, as there is no exchange of plans with a resale.

Chairman Ceppetelli questioned the Applicant if there was an objection to placing a Conservation Easement on the lot? Mr. Dan Burnham indicated he didn't know that item was an issue. Commissioner Hocutt suggested anyone would have to come before the Board for activity to occur. Chairman Ceppetelli reiterated that the Conservation Easements marks the limit of concern, and appears on the deed; without implementation of a Conservation Easement neither the identification of the area of concern, or the notification happens. Commissioner Savaria questioned that without the Conservation Easement a subsequent owner wouldn't know of the wetlands area? Chairman Ceppetelli concurred, noting the Commission consistently hears some activity has occurred because the homeowners haven't known of an area of concern.

Mr. Ussery suggested he didn't feel it would be a problem for the Applicant, if they were in agreement with granting the easement, but Mr. Ussery felt a Conservation Easement might be a deterrent for some buyers. Chairman Ceppetelli concurred, but suggested by not identifying the area then its sensitivity was being hidden from the buyers. Commissioner Baker felt that people that would buy this lot would be agreeable to a Conservation Easement; he noted it's a sensitive area which deserves some protection.

Mr. Dan Burnham questioned if there was a chance the Application wouldn't pass without the Conservation Easement; he suggested they were saying they would put in the

**TOWN OF EAST WINDSOR
INLAND WETLANDS WATERCOURSE AGENCY
Regular Meeting – November 3, 2010**

7

medallions. Mr. Ussery requested a few minutes to discuss the concept of the Conservation Easement with his client.

MOTION: To TAKE A FIVE MINUTE BREAK.

Savaria moved/Slate seconded/VOTE: In Favor: Unanimous

The Commission RECESSED at 7: 35 p.m.

MOTION: To RECONVENE this Meeting at 7:38 p.m.

Savaria moved/Baker seconded/VOTE: In Favor: Unanimous

Mr. Ussery advised the Commission the Applicant didn't have a problem with providing a Conservation Easement. Wetlands Agent Newton noted there is standard language which is used with the addition of the Conservation Easement. Commissioner Hocutt reviewed an earlier hand-out provided by Wetlands Agent Newton regarding language for the Conservation Easement which would be consistent with language used by the Planning and Zoning Commission; he ultimately agreed that the language was ok.

MOTION: To APPROVE Application IWWA 12-2010 – East Windsor Cemetery Association – Regulated activity associated with a one lot subdivision and construction of a single family home. This property is located on the North side of Cemetery Road nearest intersection being Scantic Road. Assessor's Map #35, Block #32, Lot #19. Total Parcel is 26.5 acres – with the following conditions:

- 1. The area of clearing should be staked in the field and inspected by Staff prior to the removal of any vegetation.**
- 2. Silt fence should be placed and inspected by Town Staff to ensure the least amount of disturbance possible in the area.**
- 3. Conservation Easement shall be created following wetlands boundary lines and shall be shown on plans.**

Savaria moved/Baker seconded/

VOTE: In Favor: Ceppetelli/Savaria/Malin/Slate/Sawka/Baker

Opposed: No one

Abstained: Hocutt (absent from previous presentation)

(Osborn stepped down from service on this Application)

NEW BUSINESS/3. As of Right Application – Newberry Road Enterprises – Clear land for the expansion of crop land (corn) – 68 Newberry Road – rear lot. Assessor's Map 15, Block 19, Lot 9.

Chairman Ceppetelli read the description of this Item of Business. Appearing to discuss this Application was the Applicant, Steve Dearborn, owner of 68 Newberry Road, rear lot.

**TOWN OF EAST WINDSOR
INLAND WETLANDS WATERCOURSE AGENCY
Regular Meeting – November 3, 2010**

8

LET THE RECORD SHOW Commissioner Osborn returned to service on the Board; Alternate Commissioner Baker also joined the Board regarding this Application.

Wetlands Agent Newton gave the Commission the following two pieces of support documentation to assist them with the subject Application:

- Her memo dated 11/3/2010 which summarizes the history and purpose of the subject Application and reviews pertinent sections of the Wetlands Regulations, and
- A document provided by the State of Connecticut, Department of Environmental Protection (DEP) which reviews Connecticut General Statute Section 22a-40: Permitted Operations and Uses, Subsection (a)(1): Farming:

The Commission paused to read both hand-outs.

Wetlands Agent Newton suggested this activity had been brought to the Commission's attention in the past. Mr. Dearborn had purchased this parcel in July, 2010, and clear-cut over 3 acres of wetlands surrounding the brook on the parcel in August or September to grow corn. She has issued a Notice of Violation for that activity on the rear lot at 68 Newberry Road. Wetlands Agent Newton reported she had not received any response in the Planning Office as of 10/26; the only reply has been for the Applicant to file an Application, without plans depicting the activity which has already occurred. The Commission lacks sufficient information to help them determine the As-Of-Right Exemption.

Wetlands Agent Newton noted under Section 4.4 of the East Windsor Inland/Wetland Regulations it states that the Applicant shall come in prior to any operation and use and ask the Commission if the proposed activity (which has already occurred in this case) qualifies for an As-Of-Right Exemption. Wetlands Agent Newton noted this is an after-the-fact Application for Exemption. She provided the Commission with aerials of the parcel FOR THE RECORD which were provided from a map provided a couple of years ago for a subdivision application for Craftsman Road. She pointed out wetlands which are located at the northwest corner of the parcel, and a tributary from Newberry Road which continues under Craftsman Road. Wetlands Agent Newton reported everything has been clear-cut, but not stumped.

Chairman Ceppetelli queried Wetlands Agent Newton that he didn't see stumping as a permitted use. Wetlands Agent Newton reported stumping is not mentioned in the Statute, while clear-cutting falls under a regulated activity. She suggested that the DEP says it's up to the Town to speak to the property owner to determine what will take place on the site.

Chairman Ceppetelli questioned Mr. Dearborn, noting that no Application had been filed prior to doing the clear-cutting on the property. Chairman Ceppetelli suggested he assumed Mr. Dearborn would be asking for an As-Of-Right Exemption?

**TOWN OF EAST WINDSOR
INLAND WETLANDS WATERCOURSE AGENCY
Regular Meeting – November 3, 2010**

9

Mr. Dearborn challenged the assertion that there was a stream or brook on his property. He reported there is NO stream or brook on his property; it's on the other people's property east of his property. Mr. Dearborn indicated the water doesn't run on his property one iota, and he offered to take people out there to show them. Mr. Dearborn reported there is no sitting water on his property that stays there; if anything it's the soil.

Regarding the stumping, it says he can clear-cut land for expansion of farming activity; it's part of clear-cutting the land for growing crops. This is what he intends to do. Mr. Dearborn indicated that as long as he lives we will never see a subdivision or industrial building on this parcel. Mr. Dearborn challenged that nowhere in the subdivision manual does it say you need to come in prior (to the work being done), Mr. Dearborn indicated that the work was done prior because he had a 5 day window with the land-clearing people. He wants to have this area growing next Spring.

Chairman Ceppetelli questioned what happened to the wood? Mr. Dearborn reported he moved it to the next property. Chairman Ceppetelli questioned what was done with the wood? Mr. Dearborn indicated he was turned into mulch. Chairman Ceppetelli suggested it's stated in the Statutes the clear-cutting is not for anything other than farming. Mr. Dearborn reported where the wood goes doesn't matter; the two parcels are separate; they are not combined. The wood was hauled to the other end of the site and was ground up, and the law says it was As-Of-Right. Mr. Dearborn reported he should have come in but he would have lost those guys; he apologized to the Commission.

Chairman Ceppetelli questioned if Mr. Dearborn intended to grade the property? Mr. Dearborn responded negatively, noting it's a beautiful piece of land; there is no water sitting anywhere. There are no pools.

Commissioner Osborn noted (the aeriels) showed a pool there that shows water. Mr. Dearborn indicated he would take Wetlands Agent Newton out to walk the property. Commissioner Baker asked Mr. Dearborn to show him what "that" is. Mr. Dearborn reported that brook is on the other guy's property, noting his (Mr. Dearborn's) property runs right "here". Mr. Dearborn reported "this" is a bank 10' to 20' down before it touches water; "this" stream isn't on his property. Commissioner Baker questioned where that area was on another photo? Mr. Dearborn suggested this dark area coming across this dark line isn't the way it is out there. Chairman Ceppetelli questioned if Mr. Dearborn was saying the property lines are not correct? Wetlands Agent Newton reported that the property lines from the GIS aeriels are often skewed. Mr. Dearborn reiterated it's a beautiful piece of land; it's plowable and plantable. He will grow corn on it; it's what I want.

Wetlands Agent Newton reported the wetlands are determined by soil type, which is the reason she has asked for it to be delineated. As she indicated under Section 4.4 of the Wetlands Regulations the property owner "shall come in prior to commencement of such operation and use". The language is in the State Statutes; the exemption is for clear-cutting of timber, not clear-cutting of land. Wetlands Agent Newton referenced Section

3.2, which states that “exemptions are narrowly construed”; she indicated the agency is precluded from interpreting the exemption more generously than the words of the Statute allow. Stumping the land is NOT mentioned in the Statutes.

Chairman Ceppetelli suggested the Applicant can file an Application for the stumping. Commissioner Savaria questioned how someone would clear land for farming without stumping the area? Wetlands Agent Newton reported they could not, but the Statute says it’s clear-cutting of timber, not clear-cutting of land, and the Commission must narrowly construe the intent of the Statute. Mr. Dearborn adamantly suggested (someone not identified) use their head. Commissioner Slate questioned if the parcel was zoned for farmland? Wetlands Agent Newton replied negatively, noting it’s zoned industrial, but farming is allowed.

Commissioner Savaria clarified that the Applicant has no plans that show the amount of wetlands. Commissioner Baker recalled Mr. Dearborn had said there was no brook on the property; Commissioner Baker would like to see plans showing what was there. Mr. Dearborn belligerently noted he didn’t have to have plans to farm; that’s his right. Mr. Dearborn reported he wasn’t going to spend a lot of money to have someone draw up a plan; his intention is to plant corn.

Commissioner Hocutt felt stumping is an implied activity. Wetlands Agent Newton suggested she didn’t argue that assumption, but her job is to provide the Commission with the information so they can consider those rules; you must follow those rules.

Chairman Ceppetelli suggested the Commission can ask the Applicant to delineate the soils. Mr. Dearborn arrogantly reported he was not spending money to satisfy someone’s ego. Chairman Ceppetelli questioned how close was the brook to Mr. Dearborn’s property? Mr. Dearborn reported it isn’t on his property; it’s a bank of the stream that zigzags across “there”; the water is not from his property line. Chairman Ceppetelli questioned if there was vegetation between Mr. Dearborn’s land and the brook? Mr. Dearborn reported he told “them” to leave the brush on the bank; they have brought in riprap. Mr. Dearborn suggested if they want to get into a p↓▽▽↓↔ g contest he can get into a p↓▽▽↓↔ g contest. There was a wash out of maybe 50’ to 60’ in length before you got to the line. They didn’t go into the water; it ran on their property and then into the stream so they put riprap “there” to stop it from going onto the other guy’s property. Mr. Dearborn suggested he isn’t filling wetlands; he isn’t bringing in fill; it was to prevent anything from leaving the property. Commissioner Osborn suggested it was pasture at one time. Mr. Dearborn reported he has pictures showing it was clear; it was a dairy farm, then they let horses out there. The land was previously owned by Frank Coleman.

Chairman Ceppetelli queried the Commission as to their intent; do they want to allow this work as an As-Of-Right Application, or do they want to require a full Application? Chairman Ceppetelli noted the Commission has been provided with aerials of the property as it previously existed by the Wetlands Agent. He questioned if the

Commission was comfortable granting an As-Of-Right Exemption for clear-cutting timber based solely on the Application submitted by the Applicant; he has stated he plans to stump the land. Wetlands Agent Newton referenced Section 3.3, which states, “exemptions cannot be expanded upon by the agency, even if the agency thinks good policy reasons exist to do so; conversely, exemptions cannot be more narrowly read by the agency than the language of the exemption provision dictates, even if the agency thinks good policy reasons exist to do so.” Wetlands Agent Newton referenced “clear-cutting of timber”; she questioned if the Commission thought that wording included stumping based on what Mr. Dearborn said?

Commissioner Baker felt the Commission had a responsibility to make a decision based on Mr. Dearborn’s submission.

Commissioner Hocutt questioned if the Commission had indicated on any previous applications that someone had come in before the Board to review if we had oversight – have we made a distinction of clear-cutting or stumping? Wetlands Agent Newton reported the Commission has only seen one such Application during her time here. Commissioner Osborn felt clear-cutting of timber and agricultural land includes stumping, whether it (the Statute) says it or not. Commissioner Savaria cited his concern was the activity occurred within the proximity of the stream. Mr. Dearborn reiterated the intention is to farm the land. Wetlands Agent Newton suggested the clear-cutting of trees doesn’t necessarily disturb the wetlands while stumping does. Commissioner Hocutt questioned if Wetlands Agent Newton was saying there is a differentiation between the two activities? Wetlands Agent Newton indicated she didn’t have an opinion; she is just giving the information to the Board. Mr. Dearborn reported he will be staying 30’ to 40’ from the line; he doesn’t intend to pull the stumps from the bank. Most will stay there.

Chairman Ceppetelli clarified that the Commission needs to decide if they will be granting an exemption for clear-cutting that has already been done. Does the Board have enough information to decide what vegetation was there to allow the clear-cutting? Wetlands Agent Newton suggested the clear-cutting has already taken place; the bigger question is if the Board feels the stumping of the site warrants an Application, or if it falls under the exemption?

Commissioner Savaria indicated he wanted to know the impact of the stumping on the stream, even though it’s on another property. Wetlands Agent Newton queried Mr. Dearborn if he received a plot plan when he purchased the property? Mr. Dearborn replied negatively, noting he reviewed the property boundaries through the Assessor’s Office. Mr. Dearborn reported he paid a design professional to mark the property every 50’. Commissioner Savaria questioned if Mr. Dearborn had been provided with a plan he could use as a basis for this Application; Commissioner Savaria cautioned there is a difference between staking a property line and surveying the land. Mr. Dearborn couldn’t recall if he got a plan. Commissioner Savaria indicated he wanted to see some kind of plan so he knows where the stream is. Mr. Dearborn questioned that Commissioner Savaria wanted a plan that showed the boundaries and where the stream is

**TOWN OF EAST WINDSOR
INLAND WETLANDS WATERCOURSE AGENCY
Regular Meeting – November 3, 2010**

12

now? Commissioner Savaria replied affirmatively, noting he also wanted to see what method Mr. Dearborn plans to use to protect that property; he indicated he wasn't sure leaving the stumps on the embankment is a good practice. Commissioner Baker concurred, noted he felt a full Application was necessary.

MOTION: It has been determined that the East Windsor Inland Wetland Watercourse Agency has granted an exemption for the clear cutting of timber, but has taken jurisdiction over the stumping of the field, and the Commission has required the Applicant to submit a full application showing the property boundaries, location of watercourses and wetlands, and the extent of the stumping activity.

Baker moved/Savaria seconded/

Discussion: Wetlands Agent Newton noted the Applicant, Steve Dearborn, says he plans to leave some stumps at the end of the property and that would be beneficial for the property.

VOTE: In Favor: Ceppetelli/Osborn/Savaria/Malin/Slate/Sawka/Baker

APPLICATIONS TO BE RECEIVED/1. Gerald Wilcox – Lots #5 Winkler Road - Regulated Activity – Construction of a Single Family Home within the 150' Upland Review Area. This property to be served by public water and private septic system. This property is located on the east side of Winkler Road nearest intersection being Borrup Road. Assessor's Map #7, Block #24, Lot #073-6. Total Parcel is .85 acres. (65 day application period ends January 7, 2011).

Chairman Ceppetelli read the description of this Item of Business. Appearing to discuss this Application was Jay Ussery, of J. R. Russo & Associates, representing the Applicant, Gerald Wilcox, who was also present.

LET THE RECORD SHOW Alternate Commissioner Hocutt will join the Board regarding this Item of Business.

Wetlands Agent Newton reported that in the past the Commission had accepted this Application on this lot, and subsequently received a request for a withdrawal of the Application based on the results of further testing by the North Central Health District (NCHD). The NCHD has now given their approval for this lot; the Applicant is now saying their intent was to postpone the Application, rather than withdraw it. Wetlands Agent Newton READ FOR THE RECORD the letter from J. R. Russo and Associates requesting withdrawal of the Application.

Commissioner Savaria questioned if there were any legal issues with withdrawing the Application? Wetlands Agent Newton reported the Applicant could have requested a postponement.

Mr. Wilcox, owner of 50 Newberry Road, addressed the Commission, indicating he understands the predicament of the Commission. Mr. Wilcox indicated he didn't know the difference between withdrawal and postponement. Mr. Wilcox indicated he would be willing to pay State fees on the Application.

MOTION: To WAIVE ALL LOCAL FEES on the Application of Gerald Wilcox, – Lots #5 Winkler Road - Regulated Activity – Construction of a Single Family Home within the 150' Upland Review Area. This property to be served by public water and private septic system. This property is located on the east side of Winkler Road nearest intersection being Borrup Road. Assessor's Map #7, Block #24, Lot #073-6. Total Parcel is .85 acres.

Savaria moved/Slate seconded/

VOTE: In Favor: Ceppetelli/Osborn/Savaria/Malin/Slate/Sawka/Hocutt

Mr. Ussery reported nothing has changed with the lot. The NCHD asked for additional information regarding the groundwater; with the submission of that information the NCHD has now approved the lot. Mr. Ussery submitted a letter for the Application file.

Wetlands Agent Newton reported an option for the Commission is to allow approval of this Application via an Agent decision. Mr. Wilcox reported that if the Commission is comfortable with that recommendation he would like to start, but he is not asking the Commission to do anything that's unethical.

Chairman Ceppetelli noted the wetlands are fairly close to the proposed house location; he questioned that a Conservation Easement hadn't been proposed? Mr. Wilcox replied negatively. Chairman Ceppetelli noted the wetlands are a former wetlands mitigation area. Mr. Wilcox noted a Conservation Easement was put on lot #4; he sacrificed the wetlands for a road crossing on that lot. Wetlands Agent Newton advised the Commission and the Applicant that she had spoken to Mr. Wilcox previously noting that the area under discussion (for Lot #5) was an area of mitigation and should be in a Conservation Easement. She recommended that the creation of a Conservation Easement be made a Condition of Approval. Commissioner Savaria concurred; he, too, would like a Conservation Easement on Lot #5. Mr. Wilcox continued to point out the area given up on Lot #4. Chairman Ceppetelli advised Mr. Wilcox the limits of the Conservation Easement are shown on the deed so the people who buy the lot know there are wetlands on the property. Mr. Wilcox again referred to what he gave up on Lot #4; he didn't want to put a Conservation Easement on Lot #5. Wetlands Agent Newton reported the Commission traditionally requires a Conservation Easement on almost any lot with wetlands.

Mr. Wilcox advised the Commission he was opposed to granting the Conservation Easement, but he agreed to the Commission's request. Mr. Wilcox asked Mr. Ussery for his opinion. Mr. Ussery agreed a Conservation Easement can be a deterrent to some purchasers, but, so Mr. Wilcox knows the Commission isn't picking on him, Mr. Ussery

**TOWN OF EAST WINDSOR
INLAND WETLANDS WATERCOURSE AGENCY
Regular Meeting – November 3, 2010**

14

noted the lots across the street being developed by Mr. Giorgio have Conservation Easements, and the lot occupied by Beebe Landscaping have a Conservation Easement as well. Mr. Ussery indicated the Commission has been consistent (with regard to requesting Conservation Easements) on Newberry Road. Mr. Wilcox indicated he didn't feel the Commission was picking on him.

MOTION: To ACKNOWLEDGE THE RECEIPT of the Application for Gerald Wilcox – Lots #5 Winkler Road - Regulated Activity – Construction of a Single Family Home within the 150' Upland Review Area. This property to be served by public water and private septic system. This property is located on the east side of Winkler Road nearest intersection being Borrup Road. Assessor's Map #7, Block #24, Lot #073-6. Total Parcel is .85 acres

Slate moved/Osborn seconded/

VOTE: In Favor: Ceppetelli/Osborn/Savaria/Malin/Slate/Sawka/Hocutt

MOTION: To ALLOW WETLANDS AGENT NEWTON TO MAKE AN AGENT'S DECISION on the Application for Gerald Wilcox – Lots #5 Winkler Road - Regulated Activity – Construction of a Single Family Home within the 150' Upland Review Area. This property to be served by public water and private septic system. This property is located on the east side of Winkler Road nearest intersection being Borrup Road. Assessor's Map #7, Block #24, Lot #073-6. Total Parcel is .85 acres

Slate moved/Osborn seconded/

VOTE: In Favor: Ceppetelli/Osborn/Savaria/Malin/Slate/Sawka/Hocutt

MOTION: To TAKE A FIVE MINUTE BREAK.

Slate moved/Baker seconded/VOTE: In Favor: Unanimous

The Commission RECESSED at 8:48 p.m.

MOTION: To RECONVENE this meeting at 8:53 p.m.

Slate moved/Savaria seconded/VOTE: In Favor: Unanimous

MISCELLANEOUS/1. Regulation Updates:

Wetlands Agent Newton gave the Commissioners updated Regulation revisions. She requested they review the proposed revisions, make comments in red, and submit changes to her a week in advance of the Commission's December Meeting.

AGENDA ADDITONS:

MOTION: To ADD TO THE AGENDA under MISCELLANEOUS discussion of Scout Hall proposal.

Savaria moved/Slate seconded/VOTE: In Favor: Unanimous

MISCELLANEOUS/2. Scout Hall:

Appearing to present this discussion were Jay Ussery, of J. R. Russo & Associates, and Selectman John Burnham who is a member of the Scout Hall Building Committee.

Mr. Ussery reported that at a previous meeting the Commission had requested more details regarding the proposed skating pond. In response they shot some “topos” and set flags. The $\frac{3}{4}$ acre pond, which is fed by groundwater, would be located in a wooded area adjacent to 2 hiking trails. Mr. Ussery noted they talked about flooding the wetlands area; the plans show the wetlands have been delineated. The pond would be located in the upland area to the north and west of the wetlands, and will be connected to the wetlands. The pond would have a depth of 12’, and would hold water all year long. The water elevation would be at approximately 60’.

Mr. Ussery indicated the intent of the pond was originally proposed to be for skating; they now want to put fish in the pond and hold a fishing derby. They have now decided that liability won’t be an issue.

Mr. Ussery reported the wetlands have been flagged by Mike Gragnolati (Soil Scientist); Mr. Ussery submitted a report and associated photos. Mr. Ussery indicated the soil is worn away around the tree roots which indicates a wetlands area that floods temporarily. They would allow the area to drain in the Spring. Water currently flows under a pipe out there; there may be a flow going through there during a wet season. The flooded wooded area would approximately 1 $\frac{1}{2}$ ’ deep.

Mr. Ussery advised the Commission they have not yet made an application; this is Town property. They need to get the Board of Selectmen involved; they anticipate submitting an application in December. They will be providing details on the trail crossings, including foot bridges in some areas.

Selectman John Burnham advised the Commission the Town owns the property and Scout Hall, which includes 37+/- acres. The remaining land is owned by the Scout Hall Building Committee Corporation. Selectman Burnham reported they need the Board of Selectmen’s approval before coming before this Commission.

Chairman Ceppetelli noted they have described a $\frac{3}{4}$ acre pond of 12’ in depth; if they flood the area would it include the pond? Mr. Ussery replied affirmatively, noting it would be one continuous area of ice. Chairman Ceppetelli questioned how big the total area? Mr. Ussery guesstimated perhaps 2 acres; there would be 4:1 slopes.

**TOWN OF EAST WINDSOR
INLAND WETLANDS WATERCOURSE AGENCY
Regular Meeting – November 3, 2010**

Wetlands Agent Newton noted they are proposing to put in control measures, are they being put in November and taken out in April? Mr. Ussery reported they would stay there; they are constructed of concrete material with a notched out weir so they can pull out the boards in the Spring.

Selectman John Burnham questioned if the Commission was favorable to this proposal, or not? Commissioner Baker indicated he was generally favorable; Commissioner Hocutt indicated he had some questions but nothing negative. The general consensus of the Commission was favorable to this proposal.

AGENT DECISIONS: None

STATUS REPORTS: None

CORRESPONDENCE:

- Wetlands Agent Newton reported a CACIWC Conference is available November 13th for training for Commission members. Limited funding may be available through the Town. The sign-up cut off date was October 31st; she will try to enroll those members wishing to attend.
- Wetlands Agent Newton noted receipt of letter from Steve Dearborn regarding 68 Newberry Road. This property is the subject of a lawsuit; the content of the letter was not discussed.

GENERAL BOARD DISCUSSION:

- Chairman Ceppetelli questioned the status of removal of millings from the property located on South Main Street? Wetlands Agent Newton reported a letter was sent requesting removal of the millings by October 31st; approximately half of the millings have been removed. A Citation Letter will be sent shortly.
- Regarding the other property on South Main Street, that property is under a DEP Order. There is a farm field located behind the property on which the millings have been stored; that farm field may be the location to which the fill within the streamline encroachment at 244 South Main Street is moved. Commissioner Osborn noted that the farm field being considered is adjacent to the area under proposal for creation of the skating pond by the Scout Hall Building Committee. Wetlands Agent Newton reported that Staff is asking for a sample of the soil samples; it must be clean fill.
- Wetlands Agent Newton recalled that at the previous meeting she had given the Commission information as to what constitutes a “significant activity”. That material should be retained for future referral during discussion of proposed applications.

**TOWN OF EAST WINDSOR
INLAND WETLANDS WATERCOURSE AGENCY
Regular Meeting – November 3, 2010**

17

- Commissioner Savaria questioned the status of the reduction of Inland Wetland Board members? Selectman Pippin, speaking from the audience, indicated the Commission has 3 years to accomplish that task. Wetlands Agent Newton noted the “new” Inland Wetlands Commission will be comprised of 5 Regular Members and 2 Alternate Members; the current Commission must be reduced by 3 members. Discussion followed regarding methods of accomplishing the membership reduction.
- Commissioner Baker reported he is involved in sponsoring the “Source to Sea Clean Up” scheduled for November 13th; he encouraged members to participate.

EXECUTIVE SESSION/A. Pending Litigation:

MOTION: To GO INTO EXECUTIVE SESSION regarding pending litigation at 9:26 p.m. Attending Executive Session: Chairman Ceppetelli, Commissioners Osborn, Savaria, Malin, Slate, Sawka, Baker, Hocutt, Wetlands Agent Newton, and Recording Secretary Hoffman.

Savaria moved/Osborn seconded/VOTE: In Favor: Unanimous

MOTION: To COME OUT OF EXECUTIVE SESSION AT 9:36 p.m.

Hocutt moved/Osborn seconded/VOTE: In Favor: Unanimous

ADJOURNMENT:

MOTION: To ADJOURN this Meeting at 9:36 p.m.

Osborn moved/Savaria seconded/VOTE: In Favor: Unanimous

Respectfully submitted:

Peg Hoffman, Recording Secretary, Inland Wetlands and Watercourse Commission
(6817)