

Town of East Hampton  
**Inland Wetlands and Watercourses Agency**  
**Regular Meeting**  
April 26, 2017 – 6:30 P.M.  
East Hampton Town Hall Meeting Room

**MINUTES**

**Present:** Chairman Jeff Foran, Vice Chairman Joshua Wilson, David Boule, Scott Hill, W. Dean Kavalkovich, Peter Wall, Robert Talbot, Alternate Members Jacqueline True and Harold L'Hote and Jeremy DeCarli (P & Z)

**1. Call to Order:** The meeting was called to order at 6:30 P.M. by Chairman Foran

**2. Seating of Alternates:** NA

**3. Approval of Minutes:**

**A) March 29, 2017 Regular Meeting:** *Mr. Hill moved, and Mr. Talbot seconded, to approve the minutes of the March 29, 2017 regular meeting. Voted 7-0 in favor.*

**4. Communications, Enforcement and Public Comment:** None (other than one enforcement, which is item 9B on this agenda)

**5. Agent Approval:**

**A) Application of Sabrina Pools, 3 Maplewood Dr.,** to construct a 24' above ground pool in the upland area. Map 19/Block 39A/Lot 10A: Duly Authorized Agent Foran noted the pool will be placed behind the home in a natural depression that will have to be smoothed out with sand or other material. Plans include silt fencing and/or hay bales between the site and wetlands.

**B) Application of Aaron Tyler, 13 North Main St.,** to construct a 7' x 12' vestibule in upland review area. Map 01A/Block 39A/Lot 28B: Duly Authorized Agent Foran stated that the vestibule will have a 42" foundation and regular footings on the North side. The excess waste will be hauled off-site, there is no change to the parking lot footprint, and work will start within the next month or two.

**6. Reading of the Legal Notice:** None

**7. Continued Applications:**

**A) Application of Michael McGuire, 000 Wopowog Road,** for construction of new single family home and driveway located in an Upland Review Area – Map 22/Block 52/Lot 3:

Jim Dutton of Dutton Associates, 67 Eastern Blvd., Glastonbury, explained he had received a letter from the soil scientist that flagged the wetlands on this property noting that she had not flagged an intermittent watercourse because she had erroneously believed it to be off the property. The proposed development is at least 300' away from this; Mr. Dutton will amend the plan, which will be signed by this same soil scientist, who delineated the wetland map.

Boulders and rocks on site will be used to make a low wall which will minimize the grading and disturbance on the slope. There is no anticipation of blasting on the site. The driveway will be gravel, on an 8% grade. On the East side of the driveway the water will be controlled by natural sheet flow across, and staggered sediment barriers.

*Vice Chairman Wilson moved, and Mr. Talbot seconded, to approve the application using the short form, because there are no direct negative impacts to wetlands, the activities within the upland review area are minimized, sediment and erosion measures are included and the watercourse and wetland between Wopowog Rd. and development will be protected. A condition of the permit is that a revised map is submitted to the town signed by the soil scientist showing the intermittent stream that originates between flags 49 and 50 and flows roughly to the Northwest. Voted 7-0 in favor.*

#### **8. Public Hearings: None**

#### **9. New Business:**

**A) Application of Patrick & Susan Rubega, 57 Spellman Point Rd., to regrade driveway and repair existing home. Map 09A/Block 39A/Lot 28B:**

Mr. Rubega stated that he will keep the existing structure as it is, but will bring it up to livable conditions. He plans to widen the driveway, which will be pervious gravel. He also plans to lift the house and excavate under it to pour footings and a crawl space. He will expand the shed dormer to a gable roof for a porch area, add a bilco door for the crawl space and landscaped steps to the garage, expand the chimney and add a storage shed. He plans to re-grade the back hill, which will help reduce runoff into the lake. There will be no work done on the shoreline. There is no well, and Mr. Rubega intends to drill one near the garage. Chairman Foran suggested the sewer line be depicted on the plan. The house is guttered. Agency members suggested adding a infiltrating dry well, or some other way to capture runoff before it goes into the lake

*Mr. Kavalkovich moved and Mr. Talbot seconded to continue this application to the next regular meeting, which will occur on May 31, 2017. Voted 7-0 in favor.*

**B) Cease and Desist Order, John Hanson,** Tartia Road, activity in wetland and or upland review area. Map 27/Block 55/Lot 1:

Mr. Hanson was present to explain that there was a pond on his property that a dam had been added to in 1940. Since then the pond had been growing, and about 18 years ago there was a major beaver infiltration and the pond became a lake. He controlled it to a certain degree, but it had gotten to the point where his meadow was flooded. Because of the beaver, he claims to have lost his ecosystem of fish and animals, such as wood duck and that he is unable to garden or hay. In response, Mr. Hanson recently drained the pond with an excavator.

He stated that his property is a farm, and referenced section 404, agricultural exemption of the Federal Clean Water Act, which he believes exempts him from the permitting process. It was noted by Agency members that Fed. Section 404 does not apply as the State DEP is very clear that removing beaver dams is a regulated activity requiring a permit and that the State Inlands and Wetlands Act guides this Agency. Mr. DeCarli noted that Mr. Hanson's property is in the Public Act 490 program for taxation of farmland. The dam on Mr. Hanson's property is not included in the State DEP dam inventory.

Mr. Hanson stated that there was about 4' of water in an area of 3.5 – 4 acres. Photos were reviewed showing aerial views of the area throughout a long period of time and it was clear to the agency that the pond had grown since the earliest photos from 1934. Vice Chairman Wilson read section 4 of the Town regulations. It was stated that if the pond was less than 3 acres, it would fall within the permitted as of right use to maintain it as a farm pond, if the pond is essential to the operation of the farm. Mr. Hill suggested, based on past rulings, that the Agency use the original size of the pond when making their decision; this was less than 3 acres. Mr. Hanson stated that he would like the pond controlled to 1 or one-half an acre to let the ecosystem build back up and prevent flooding on Tartia and Collie Brook.

There was discussion amongst Agency members regarding the recent size of the pond, the original size of the pond, and the fact that Chairman Foran, Mr. Wall and Mr. Boule could remember back to when there was less than 3 acres of water at the site.

*Mr. Hill moved and Mr. Talbot seconded to take a vote as to whether Agency members deem this activity an as of right use. Voted 6-1 in favor of this activity being an as of right use, with Vice Chairman Wilson opposed.*

*Discussion: It was clarified to Mr. Hanson that the trapping of beaver is an activity that is regulate by the DEP.*

## 10. Old Business

**A) Discussion: Seawalls and Lake Shore Treatment:** There was discussion on how the guidelines will be used, and the possibility of holding a public hearing and adopting these as an enforceable regulation in the future. There were questions raised about grandfathering in existing seawalls, and what would be constituted as repair to an existing wall rather than new. The Agency decided to keep this item on the agenda for the next meeting, and also to keep it as a guideline for now. Mr. DeCarli stated that he will take a look at seawall regulations in other towns. It was noted that the suggestions can now be included with information if an applicant comes in for a permit.

**B) Review Open Permits:** Mr. DeCarli reported that all existing in-progress sites that are required to have site monitoring are finally in compliance.

Mr. DeCarli also stated that within Clark Hill Estates, which was recently approved for re-subdivision, there had been erosion due to rain, of the original grass drainage. He and the developer spoke about a rip rap swale as a better option, but instead, construction debris had been brought in. The site has since been cleaned of all non-rock material, and stones are in the swale area.

Revisions have been made to plan for the single family construction at 18 West Point. An infiltration galley and footing drain outlet were moved and the well was moved, because they were too close to each other. The infiltration gallery is now further from the lake.

## 11. Public Comments: None

**12. Adjournment:** *Mr. Talbot made a motion, seconded by Vice Chair Wilson, to adjourn at 8:07 P.M. Voted 7-0.*

Respectfully submitted,

Eliza LoPresti  
Recording Clerk