

**Brooklyn Inland Wetlands Commission
Regular Meeting Minutes
February 9, 2016**

The Brooklyn Inland Wetlands Commission held a regular meeting on Tuesday, February 9, 2016, 6:00 p.m. at the Clifford B. Green Memorial Center, 69 South Main Street on the following:

Call to Order: The meeting was called to order at 6:02 p.m.

Members Present: Real Gallant, Erik Costa, Richard Oliverson, Melissa Labossiere, George Sipila, Jeff Arends.

Absent: None.

Staff Present: Martha Fraenkel, Wetlands Agent, Audrey Cross-Lussier, Recording Secretary.

Also Present: Norm Thibeault, Paul Terwilliger, Richard Regis, Keith and Melissa Hoyt, Joe Theroux, Paul Archer, Aaron Kerouack, Ken Cardinal.

Roll Call: All members present stated their name for the record.

Seating of Alternates: None.

Election of Officers:

A motion was made by Jeff Arends to open the floor up for Election of Officers. Erik Costa seconds this motion. No discussion. The motion passes unanimously.

Chairman: A motion was made by Jeff Arends to elect Real Gallant as Chairman of the Inland Wetlands Commission for this year. Erik Costa seconds this motion. No discussion held. All in favor. The motion passes unanimously.

Vice Chairman: Jeff Arends asked Erik Costa if he would like to be Vice Chairman. Mr. Costa stated no.

A motion was made by Erik Costa to nominate Jeff Arends as Vice Chairman of the Brooklyn Inland Wetlands Commission. George Sipila seconds this motion. No discussion held. All in favor. The motion passes unanimously.

Review of Bylaws-Proposed Modifications:

Martha Fraenkel presented the Proposed Modifications which are restricted to the agenda order and categories – Article X – Order of Business.

1. To add additions to the agenda-add any business to agenda, by vote of members (not in a special meeting).
2. New Application Acceptance. Use Receipt instead of acceptance – follows the State Statutes.
3. Delete Continued Applications and send continue applications into Old Business which will be a new category.
4. New Category named Communications – add new category for letters, reports to the Commission.

Jeff Arends asked if the Commission members if they would like to consider having Public Commentary at the beginning and end of the agenda. Discussion ensued. All members agreed to leave it at the beginning of the meeting.

A motion was made by Jeff Arends to accept the proposed changes to the Bylaws on February 9, 2016. Melissa Labossiere seconds this motion. Discussion ensued.

Erik Costa discussed with Ms. Fraenkel and Commission Members the completeness and acceptance of new applications.

Vote was taken. All in favor. The motion passes unanimously.

Approval of Minutes:

1. Regular Meeting Minutes January 12, 2016. A motion was made by Jeff Arends to approve the regular meeting minutes of January 12, 2016. George Sipila seconds the motion. No discussion held. All in favor. The motion passes unanimously.

Public Commentary: None.

New Application Acceptance (Receipt):

1. 020916A Matt Schwab/applicant, Thomas Roome/owner, 161 Laurel Hill Road, Map 17, Lot 3; Addition to existing single family dwelling with 96 sq. ft. in wetlands and construction of a garage and well in the upland review area.

Paul Archer, Archer Surveying LLC represents application 020916A. Mr. Archer gives an overview of the project. Mr. Schwab is in the process or purchasing the house from Mr. Roome. The proposed is a 15 foot addition on the south side of the home. They cannot go to the north due to the Blackwell's Brook being 40 feet away. The wetlands were delineated by Joe Theroux. The project is within the flood zone; the addition will be built on piers, no foundation in the ground.

Jeff Arends asked Mr. Archer when the house was built. Mr. Archer stated approximately in the 1960's. There was also a permit for an addition in approximately 2007 and a new septic system within the last 2-3 years. Mr. Archer also stated that the owner has no issue with the Commission doing a site walk of the property.

Commission Members discussed and deemed this to be a significant activity.

A motion was made by Jeff Arends to schedule a public hearing on application 020916A Matt Schwab for Tuesday, March 8, 2016. George Sipila seconds this motion. No discussion held. All in favor. The motion passes unanimously.

A motion was made by Jeff Arends to receive application 020916A Matt Schwab. George Sipila seconds this motion. No discussion held. All in favor. The motion passes unanimously.

Continued Applications:

1. 011216A Richard Regis, 35 South Main Street, Map 41, Lot 57, PC Zone; Placement of fill and lot re-grading within regulated area.

Paul Terwilliger, LS, PC Survey Associates represents application 011216A. Mr. Regis owns a vacant lot on the corner of Proulx Street and South Main Street. There was a site plan approved many years ago. Mr. Regis has been working on excavating and grading the site. Recently Mr. Regis started filling in the site and realized the wetlands permit was no longer valid. Mr. Regis is before the Commission tonight for a permit to place fill and bring the grade up to where it was prior. The wetlands were delineated by Joe Theroux. There is no activity within the wetlands, there is silt fence erected between the activity and the wetlands.

Chairman Gallant stated there is a Town drainage easement; would any of this be affected? Mr. Terwilliger stated no. All the filling is on the South Main Street side.

A motion was made by Erik Costa to approve application 011216A Richard Regis, 35 South Main Street, Map 41, Lot 57. Richard Oliverson seconds this motion. Discussion ensued.

Jeff Arends adds to the motion:

1. Mr. Regis to notify the wetlands agent prior to the start of work.
2. Applicant will ensure that the silt fence is installed and maintained throughout the project and to notify the Wetlands Officer when the job is complete and before silt fence is removed.
3. The valid permit will be for 5 years maximum.

Vote was taken. All in favor. The motion passes unanimously.

2. 011216B KCTT Properties, LLC, 520 Providence Road, Map 42, Lot 15, PC Zone; Construction of 500 sq. ft. addition 40 feet from wetlands; Construction of 8 ft. x 24 ft. deck 93 feet from wetlands.

Paul Terwilliger, LS, PC Survey Associates represents application 011216B. The property is the Sweet Peas Building. The proposal is a 500 sq. ft. kitchen addition to the rear of the building, also to construct an 8 x 24 foot deck on the easterly side of the building. The wetlands is located 40 feet away from the addition and the deck is 93 feet away from the wetlands. The wetlands were delineated by Joe Theroux. All the activity that will take place is located on top of an existing paved parking area. There will be no earth disturbance other than removal of the pavement for the footings. There will be silt fence erected between the activity and the wetlands to protect any run off that may occur.

Mr. Costa asked if run off from the property is being changed and will it drain into the adjacent drainage system? Mr. Terwilliger stated it will not go into the adjacent drainage system. There is a berm there.

Chairman Gallant asked what type of a foundation/footings will there be. Mr. Terwilliger stated it will be on a slab with footings, it is on a walk out level. The deck will be on piers.

Chairman Gallant asked if there are any concerns with regards to kitchen grease or is this the Department of Health. Ms. Fraenkel stated that the Department of Health monitors restaurants and food preparation. Ms. Fraenkel's only concern is that there is run off from the bottom of the parking lot towards the wetlands. Ms. Fraenkel asked Mr. Terwilliger if they would monitor the swale to make sure nothing changes. If something were to change, measures would be taken.

A motion was made by Jeff Arends to approve application 011216B KCTT Properties, LLC, 520 Providence Road with the following conditions:

1. The Permittee shall monitor the site for scour and erosion in the swale leading from the work area.
2. Permittee shall notify the Wetlands Officer prior to the start of any work.
3. Silt fence shall be maintained in a functional state and left in place until the work has been completed and the Wetlands Officer has approved its removal.
4. The Permit is valid for up to 10 years.

George Sipila seconds this motion. Discussion ensued.

Vote was taken: All in favor. The motion passes unanimously.

Reading of Legal Notice: Chairman Gallant read the legal notice into the record.

Public Hearings:

1. 011216C Keith and Melissa Hoyt, 13 Hickory Lane, Map 43, Lot 23-20, RA Zone; Construction of a residential driveway with associated grading, proposed 3,870 sq. ft. of wetlands disturbance and 6,850 sq. ft. of wetlands mitigation.

Norm Thibeault, Killingly Engineering Associates represents application 011216C. A previous proposal was presented at the December 2015 meeting and was denied. Therefore a new

application has been submitted with improvements to the plan. The new proposal is to construct a residential driveway to the home of Mr. and Mrs. Hoyt with a proposed 3,870 sq. ft. of wetlands disturbance. The two significant changes to the plans are:

1. Amount of wetlands proposing to recreate now are approximately 6,850 sq. ft. as opposed to a little over 4,000 sq. ft. previously.
2. At the crossing point with the pipes going beneath the driveway, the 24 inch pipes there will instead be 36 inch pipes; countersinking the pipes foot into grade and the interior of the pipes will be up the one foot mark filled with gravel to create a more natural streambed bottom.

The construction sequence is proposing staked hay bales or silt fence along the perimeter of excavations. In order to preserve the bed of the driveway there is a 6 inch under drain proposed on the up gradient western side of the driveway which will discharge essentially to the point where the crossing is. Mr. Thibeault also discussed the GEO grid stabilization that will be put down in the area of the crossing.

Mr. Thibeault reviews and discusses a letter submitted by Keith and Melissa Hoyt received via e-mail dated 12/10/15 with regards to Driveway Application Supplemental. (Document is available for review in application file).

Mr. Thibeault reviews and discusses a letter submitted by Joseph R. Theroux, Certified Forester/Soil Scientist dated 12/2/15 with regards to 13 Hickory Lane. (Document is available for review in application file).

Mr. Thibeault reviews and discusses with Commission Members a second letter submitted by Joseph R. Theroux, Certified Forester/Soil Scientist dated 2/8/16 in response to staff comments (document is available for review in application file).

Mr. Thibeault reviews and discusses with Commission Members the 6,850 sq. ft. of wetlands mitigation area.

Mr. Thibeault reviews and discusses with Commission Members a report dated 11/18/14 from Killingly Engineering Associates regarding Pavement Evaluation at 10 and 13 Hickory Lane Brooklyn, CT. (Document is available for review in application file).

Mr. Thibeault reviews and discusses driveway alternatives (repair versus construct new driveway) with Commission Members. Mr. Thibeault reviewed with Commission Members comments received from Syl Pauley, Jr., PE, NECCOG Regional Engineer dated 2/4/16. (Document is available for review in application file).

Chairman Gallant questioned if an approval is necessary from the Town of Brooklyn to allow construction over the existing 40 foot easement. Mr. Thibeault stated the easement is for maintenance purposes. The pipe is actually 6-7 feet from the eastern side of the easement itself. There will be no impact to the pipe. Discussion ensued.

Keith Hoyt spoke with Public Works Foreman, Tom Rukstela with regards to the driveway proposal and the existing easement. The Town cleans up the easement when necessary. Mr. Hoyt commented that Mr. Rukstela did not have any issue with the driveway construction and the existing easement. Discussion ensued.

George Sipila leaves the meeting at 7:15 p.m.

Chairman Gallant questioned how the 36 inch pipe will direct water to the 24 inch pipe. Mr. Thibeault stated that the pipe is counter sunk, decreasing the capacity of the pipe. Mr. Gallant stated that the majority of the channel maintenance is on the Jax property and feels this could potentially be another problem. Mr. Thibeault stated that Mr. Jax has never maintained the channel.

Chairman Gallant asked Mr. Hoyt if he has any position on giving up the rights to the existing driveway (Jax). Mr. Hoyt stated he has a deeded right to pass and repass. Chairman Gallant asked Mr. Thibeault if this will allow Mr. Hoyt the right to maintain the entire drainage. Mr. Thibeault stated he imagines so. Discussion ensued. Mr. Thibeault states for the record that if this is approved and constructed, and there are unforeseen issues/problems that result from the construction, they will correct it. Chairman Gallant is not concerned with the existing driveway; he is concerned with Mr. Hoyt's ability to maintain the drainage of the culverts. Mr. Hoyt stated the he will not give up his right through the deeded right of way/driveway.

Jeff Arends asks if proposed mitigation area #1 is a wetland or are you trying to make a wetlands. Mr. Thibeault stated they will make a wetland there.

Melissa Labossiere asks Mr. Thibeault to reiterate what the differences are from the first plan to the proposed plan with regards to impact and mitigation. Mr. Thibeault stated the amount of impact is identical as the first time.

Mr. Hoyt stated that one thing that was mentioned this last month is whether he would be willing to go to Mr. Jax and ask him if he would be willing to create a legal agreement that both find binding. This did not happen Mr. Hoyt has only had two conversations with Mr. Jax in reference to the driveway and his responses have been "can you pass." Mrs. Hoyt has had one conversation with Mr. Jax during which time his response to maintenance of the driveway was "we have different ideas of what looks good and what doesn't, something to that effect." Therefore Mr. Hoyt's willingness to engage into an agreement with somebody who is not willing to take responsibility for the driveway that is shared is not a very positive thing on Mr. Hoyt's end.

Mr. Hoyt stated in April of 2013 Mr. Jax submitted an application for a permit from this Commission to do work in the upland review area, expansion of lawn, gravel driveway, grading of the bank. A wetlands meeting was held on May 14, 2013. Mr. Hoyt reads into the record the meeting minutes which reflect upon Mr. Jax's application 040913A. (Application 040913A is available for review in application file; meeting minutes available for review in Town Clerk's Office).

Mr. Hoyt also reviewed a letter from Andrea Kazantzis, Browning and Browning Real Estate, LLC, regarding the marketing of his property.

Mr. Hoyt stated that he was asked to get a letter from his attorney in reference to any type of legal actions that may or may not happen in reference to the driveway. Mr. Hoyt's attorney and he decided that they are not going to address any conversations or comments about any type of legal action as they are not sure if any legal action is going to take place.

Chairman Gallant stated there is an approval letter dated May 21, 2013. (Document is available for review in application 040913A file).

Norm Thibeault stated that the failure of Mr. Jax's septic system is due to 80,000 lbs. trucks being parked on it over a 2-3 year period being loaded up.

Mr. Costa stated that property is owned by the Jax family, the application before the Commission is for the Hoyt property and the Commission should focus on that. Mr. Costa stated that it is clear that Mr. Hoyt needs a driveway to go to his property that is clearly engineered.

Mr. Arends is concerned with the mitigation areas and asks for further clarification. Mr. Thibeault addresses Mr. Arends concerns with recreating a wetland.

Chairman Gallant asked are we working in the wetlands and creating in the upland review area or is this all upland review area that will be creating wetlands. Mr. Thibeault stated the driveway itself is 3,800 sq. ft. of wetlands disturbance, actual activity within the wetlands for the driveway. In order to compensate for that they are proposing to create 6,850 sq. ft. of new wetlands in the upland review area.

Joseph R. Theroux, Certified Forester/Soil Scientist discusses in detail with Commission Wetland mitigation. Mr. Arends asked what will present invasive species coming back after they are removed. Mr. Theroux suggests post construction monitoring.

Paul Archer voiced his opinion with the Commission in favor of the project.

Mr. Arends asked when the original property was subdivided. Mr. Hoyt stated there were two lots bought, one 12 acres, one 8 acres, lots 19 and 20. The original subdivision was done in 1987. Mr. Hoyt commented that after they purchased the property an interior boundary line was changed and cut off 15 acres for themselves and sold 5 acres to the Briere's Commission members reviewed the recorded subdivision map that Ms. Fraenkel provided.

Mr. Arends asked if the original driveway was gravel. Mr. Hoyt stated initially it was gravel. The Briere's and the Hoyt's shared the expense to have it paved.

Aaron Kerouack, Windham Road, Realtor, Resident, PZC Commission member, spoke with regards to easements, right of ways, and ownership of a shared driveway. Mr. Kerouack voices his opinion in favor of the project.

Mr. Arends stated he is trying to grasp the mitigation. Mr. Arends asked if there is anyone else that could give testimony that would back up Mr. Theroux. Mr. Thibeault stated that is a common standard practice on State and Federal level. Mr. Arends asked if they ever fail. Mr. Thibeault stated yes, so they need to be monitored. The first two years are critical. Discussion ensued.

Chairman Gallant asked Mr. Theroux if it would be unreasonable for him to draw up a two year maintenance/inspection schedule. Mr. Theroux stated he has done this previously as part of a wetland mediation plan/inspection schedule which stipulates how to inspect and the frequency. Chairman Gallant asked Mr. Hoyt if he would have a problem with Mr. Theroux drawing up such a plan and adhering to it. Mr. Hoyt stated he has no problems adhering to the plan. Discussion ensued.

Ms. Fraenkel commented. She said they have done a good job at designing a driveway that has the least possible impact. It is narrow, with one pull out and there is the mitigation area. She asked Mr. Theroux how long would it take for soils to become hydric. Mr. Theroux said they are not changing hydrology; they are changing soil profile and adding wetlands plants. Further discussion ensued.

Ms. Fraenkel asked if the barberry will be physically removed with a machine. Mr. Thibeault stated it would have to be individually pulled out by machine initially but would be pulled by hand once planting had occurred. A torch will be used.

Ms. Fraenkel stated for the record, there was a comment about Mr. Hoyt not having the right to maintain. Ms. Fraenkel stated that this is a legal question an attorney would have to answer.

Ms. Fraenkel stated as far as the easement goes; the easement can say anything, but typically the easement is a grant to the Town to install drainage and as long as he does not interfere with the Town's ability to install and maintain a drainage easement, other activity is okay.

Ms. Fraenkel commented if there is going to be a 2 year inspection schedule devised she would like to be one of the Town Staff along with Syl Pauley to review it.

Norm Thibeault reads a copy of the deed into the record with regards to the drainage easement.

Mr. Theroux described the different ways to remove barberry – poison it, excavate it, cut it manually and burn the stems. Discussion ensued.

A motion was made by Erik Costa to close the public hearing. Richard Oliverson seconded this motion. No discussion held. All in favor.

b. Unfinished Business:

**1. 011216C Keith and Melissa Hoyt, 13 Hickory Lane, Map 43, Lot 23-20, RA Zone;
Construction of a residential driveway with associated grading, proposed 3,870 sq. ft. of
wetlands disturbance and 6,850 sq. ft. of wetlands mitigation.**

Jeff Arends moved to approve application 011216C of Keith and Melissa Hoyt, 13 Hickory Lane, Map 43, Lot 23-20 for construction of a residential driveway with associated grading, proposed 3,870 sq. ft. of wetlands disturbance and 6,859 sq. ft. of wetlands mitigation, based on the submitted application and plan titled "General Location Survey Showing Proposed Driveway Prepared for Keith D. and Melissa J. Hoyt, 13 Hickory Lane, Brooklyn, CT" prepared by Killingly Engineering Associates, 2 sheets, plan dated 11/5/15 revised to 12/10/15 (page 1) and 12/2/15 (page 2), with the following conditions:

1. Permittee shall notify the Wetlands Officer at least 48 hours prior to start of any work.
2. Silt fence shall be maintained in a functional state and left in place until the work has been completed and the Wetlands Officer has approved its removal.
3. As part of application, a plan of inspection and monitoring is to be submitted by Mr. Theroux and completion of inspections to be submitted to our Wetlands Agent and Town Engineer if required.
4. The wetlands flagging shall remain in place until the required certification has been received by staff.
5. This permit shall be valid for (5) five years.

The approval is granted based upon a finding that:

1. There are no feasible and prudent alternatives to the proposed plan that would cause less or no environmental impact to the wetlands.
2. The wetlands mitigation area shown on the proposed plan will minimize the impact of the proposed driveway construction.

Erik Costa seconds this motion. Discussion held.

Mr. Arends voiced his comments with regards to the driveway. Chairman Gallant stated that the maintenance/monitoring plan has a minimum of (2) year period.

Mr. Oliverson asked what will be done with the barberry when it is pulled out, will it be burned? Mr. Oliverson would like to see it burned on site with permission. Contact the Fire Marshal for a burn permit.

Vote was taken: All in favor. The motion passes unanimously.

c. Continued Public Hearings: None.

New Business:

1. DR16-003 Gary and Laurel Post, north side of Brown Road, Map 34, Lot 1A, former Ingalls Tree Farm, proposed timber harvest.

Ms. Fraenkel speaks to the application. She has visited the property. There are wetlands on the property. They will stay out of the wetlands by about 120 feet. There will be no wetlands crossing and no work in the wetlands.

2. DR16-004 David and Gail Allen, 129 Christian Hill Road, Map 19, lot 20, proposed timber harvest.

Ms. Fraenkel said there will be work in the wetlands; no fill or crossings.

Joseph Theroux, Forester and Soil Scientist speaks with regards to the application. There will be forest management work done. They will be working directly in the wetlands, cutting trees which is a permitted use as of right. There will be no clear cutting. They will be removing over mature trees, poorly formed trees, and diseased trees to basically improve the health and vigor of different stands on the property. Mr. Theroux reviewed the site plan with Commission Members. There will be no skid trails in the wetlands; they will be working adjacent to them. At the completion of the harvest they will be grading, seeding and stabilization.

3. Wetlands Agent Monthly Report.

Ms. Fraenkel discusses conditions of approvals with Commission Members. Discussion ensued.

Mr. Arends commented that Mr. Jax had a previous application approved by the Commission and it sounds like he has not complied with the conditions of the application. Ms. Fraenkel will review the Jax application.

A motion was made by Jeff Arends to add Public Commentary to the agenda. Erik Costa seconds this motion. No discussion held. All in favor. The motion passes unanimously.

Public Commentary:

Aaron Kerouack commented on Stony Brook west to Route 6 and Appell Road/Windham Road and the change in the course of the brook since the public utility work that has been done. Discussion ensued.

Mr. Costa asked Ms. Fraenkel if she has access to the Town Attorney. Ms. Fraenkel stated she does and tries to be sparing with it.

Adjourn: A motion was made by Erik Costa to adjourn the meeting at 8:25 p.m. Jeff Arends seconded this motion. No discussion held. All in favor. The motion passes unanimously.

Audrey Cross-Lussier
Recording Secretary