

**Brooklyn Inland Wetlands Commission
Regular Meeting Minutes
December 8, 2015**

The Brooklyn Inland Wetlands Commission held a regular meeting on Tuesday, December 8, 2015, 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 6:00 p.m.

Members Present: Real Gallant, Erik Costa, George Sipila, Richard Oliverson and Deane Rettig (arrived a little past 6:00 p.m.)

Absent: Melissa Labossiere and Jeffrey Arends with notice.

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

Also Present: Rick Ives, First Selectman, Norm Thibeault, Tina Kerouack, Aaron Kerouack, Keith and Melissa Hoyt, Richard Jax, Linda Trahan, public in attendance.

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

Seating of Alternates: none.

Approval of Minutes:

1. Regular Meeting Minutes November 10, 2015: A motion was made by Erik Costa to approve the Regular Meeting Minutes of November 10, 2015. George Sipila seconds this motion. No discussion held. Richard Oliverson abstains. The motion passes.

Public Commentary: None.

New Application Acceptance: None.

Continued Applications: None.

Reading of Legal Notice:

New Public Hearings:

1. 081115A Strategic Commercial Realty, Inc., d/b/a Rawson Materials, Jeffrey Rawson President; Off Rukstela Road, Map 30, Lot 16, RA Zone, 115.35 Acres; Removal of gravel and creation of a haul road for access to and from the same.

Chairman Gallant stated that a letter has been received from the applicant's Attorney Ernest Cotnoir dated 12/8/15 withdrawing the application. There will be no public hearing for the application.

2. 101315A Tina M. Kerouack, 282 Windham Road; Maintenance of driveway with existing wetlands crossings; Improvements for the purposes of increased safety and accessibility.

Chairman Gallant reads the legal notice into the record.

Norm Thibeault, Killingly Engineering Associates represents application 101315A. Mr. Thibeault handed out revised plans which he said have entirely addressed comments made by Syl Pauley, Jr., Town Engineer.

The proposal is to improve an existing gravel driveway that varies in width from 8 to 9 feet in some spots up to about 12 feet in some spots. It winds through a wetlands system with various pockets. The applicant/owner of the driveway is looking for improvement for several reasons; it is a shared driveway for three separate residences. It is a problem if two people are coming in opposite directions to pass each other.

The proposal is to do two things; first widen it to make it a 2-way driveway so cars can pass safely and second to pave it as this driveway is continually a maintenance issue. Every 3-4 years they bring in truckloads of material to spread and re-compact over the driveway. Over this 3-4 year period of time it washes away and gets plowed up. There are five separate cross culverts underneath the existing driveway with many being damaged, exposed and having holes in them. It is not a safe condition, from an engineering standpoint it is not the optimum condition for a multifamily access driveway.

The proposed plan shows the widening of the driveway to 18 feet wide; a wetlands disturbance of 3,268 sq. ft. and three separate mitigation areas of 3,570 sq. ft. More wetlands will be re-created than disturbed.

Mr. Thibeault reviews a report dated 12/5/15 from Joseph R. Theroux, Certified Forester and Soil Scientist with Commission Members – Existing Conditions; Wetlands; Wetland Functions and Values; and Potential Wetlands Impacts. Mr. Theroux's conclusions; in summary, it is my opinion that the site plan implements features intended to minimize impacts such as loss of wetland function and storm water runoff, and erosion and sedimentation during and after construction activities. These features would include the design of the riprap swales and settling basins, paving the driveway surface, and the proposed E & S measures. Mr. Theroux sees no significant or adverse short or long term impacts to the wetlands or their functions concerning reconstruction of the proposed driveway, provided that the proposed erosion and sedimentation control features are implemented and maintained throughout the construction timeframe. Although the disturbance and alterations within the wetlands and upland review areas will change habitats slightly, it will not result in significant loss of wetland function or value. The wetlands as well as the upland review areas on the property will still have the ability to perform the same functions they currently provide.

Mr. Thibeault discusses the mitigation area resulting in 3,570 sq. ft. in total. This will create better quality wetlands than what currently exists. Mr. Thibeault further discusses the seed mix to be applied as well as the native wetland plant vegetation. Mr. Thibeault discussed drainage calculations gravel versus pavement.

Mr. Thibeault reviews comments received from Syl Pauley Jr., NECCOG Regional Engineer dated 12/3/15 with Commission Members. All comments recommended by Mr. Pauley have been placed on the revised plans.

Mr. Thibeault discusses the alternatives for the driveway. The first option was to repair the existing driveway. This was not chosen due to being repaired multiple times over the years.

The other alternative is to construct a wider non paved driveway. This option was not chosen due to the continual maintenance of a gravel driveway.

Another alternative was to construct a lesser width paved driveway. Per Mr. Thibeault's professional opinion, 12 to 14 foot wide driveway is not appropriate even with pull offs. Mr. Thibeault discusses this with Commission Members.

Chairman Gallant asked how many houses serve the driveway. Mr. Thibeault stated three. With a paved driveway there will be less maintenance issues and allow two cars to pass in either direction. Chairman Gallant asked what the area of wetlands disturbance is. Mr. Thibeault stated 3,269 sq. ft. Chairman Gallant asked Mr. Thibeault what the total area of disturbance would be if the existing driveway was paved. Mr. Thibeault stated this would cut the disturbance in half. Discussion ensued.

Chairman Gallant asked if the applicant owns the driveway. Mr. Thibeault stated yes. The other neighbors have the right to pass. Discussion ensued.

Tina Kerouack, owner, stated that there is an existing maintenance agreement/deed restriction. The owner will pay for the driveway to be paved and the maintenance is shared among neighbors.

Erik Costa asks if there will be stockpiling of excavated material during construction of the driveway. Mr. Thibeault commented that the only areas excavated would be for the pipes. Mr. Costa asked if any residents connected to the shared driveway have any French drains. Mr. Thibeault stated no. Discussion ensued.

Ms. Fraenkel asked how old the driveway is. It was built prior to 1986 per Ms. Kerouack. Ms. Fraenkel asked what the grade is on the driveway. Mr. Thibeault stated flat in most areas, the entrance is 3% going up to about 4.5% with a very gradual grade throughout the driveway.

Ms. Fraenkel gives her comments with regards to maintenance of a gravel driveway; and width of driveways. Discussion ensued.

Chairman Gallant asked how many houses can serve off an 18 foot driveway per regulations. Ms. Fraenkel states the regulations allow 3 houses on a private driveway. Discussion ensued.

Ms. Fraenkel requests the following: that no fertilizers and lime be used; add a note that specifies treatment of stockpile management if should be needed and replace with 6 inches of organics.

Deane Rettig questioned whether chemicals will be used on the driveway in the winter when plowed and what impact this would have on the wetlands. Discussion ensued.

Chairman Gallant opens the floor to public comment.

Lucille, 276 Windham Road-resident who lives on the driveway, asked if Ms. Kerouack does not get approved, will the Town do something about Windham Road where the water comes and washes the driveway out so many feet. Chairman Gallant suggested she speak with Ms. Fraenkel regarding this issue.

Mary Ann Thomen, 289 Windham Road, property owner across the street, voiced her concerns with regards to the 18 ft. wide paved driveway and questioned if there is going to be further development. She supports keeping the essence of open space and wildlife habitat.

Tina Kerouack property owner appreciates the nature of the property. Mr. Kerouack passed away two years ago and did all of the maintenance on the gravel driveway. Mrs. Kerouack now hires someone to maintain the driveway. There are deep divots in the road. Paving the driveway would eliminate the need for all other maintenance associated with a gravel driveway. This would make it safer for larger vehicles to go back and forth to service the houses.

Rich Oliverson asked Mr. Thibeault if the applicant had explored a 12 foot driveway with pull offs. Mr. Thibeault discussed this alternative.

Erik Costa voiced his concern with regards to gravel driveways and the practicality and reasonability of the impervious surface.

A motion was made by Deane to close the public hearing. Erik Costa seconded this motion. No discussion held. All in favor. The motion passes unanimously.

3. 111015A Keith Hoyt, 13 Hickory Lane, Map 43, Lot 23-20, RA Zone, Construction of a residential driveway with associated grading and proposed 3,870 sq. ft. of wetlands disturbance.

Chairman Gallant reads the public hearing notice into the record.

Norm Thibeault, Killingly Engineering Associates represents application 111015A. The proposal is to construct a new 10 foot wide driveway through an inland wetlands area.

Mr. Hoyt currently accesses his property via a common/shared driveway with a neighbor (Jax). The proposed new driveway comes off of Hickory Lane with a proposed wetlands mitigation area of 4,300 sq. ft. The plan proposes a 10 foot wide paved driveway for a single family residence to connect on his property to an existing driveway. Mr. Thibeault demonstrates this on the site plan. The existing shared driveway is not on the Hoyt's property, it is on the adjacent property (Jax). The Hoyt's have the deeded right to pass and repass. Mr. Hoyt has maintained the driveway over the years; the driveway is in disrepair and rather than repair the existing driveway, Mr. Hoyt feels it is a better solution to have his own driveway.

Mr. Thibeault reviews a report dated 12/2/15 from Joseph R. Theroux, Certified Forester and Soil Scientist with Commission Members – Existing Conditions; Wetlands; Wetland Functions and Values; Potential Wetland Impacts. Mr. Theroux conclusions were: In summary, it is my opinion that the site plan implements features intended to minimize impacts such as loss of wetland function and storm water runoff, erosion and sedimentation during and after construction activities. These features would include the proposed E & S measures and the wetland mitigation area which will compensate for the loss of wetland function in the driveway footprint. Mr. Theroux sees no significant or adverse short or long term impacts to the wetlands or watercourse or their functions concerning the construction of the proposed driveway, provided that the proposed erosion and sedimentation control features are implemented and maintained throughout the construction timeframe. Although the temporary disturbance and alterations within the upland review areas will change habitats, it will not result in significant loss of wetland function or value due to the wetland mitigation. The wetlands and watercourse, as well as the upland review areas on the property will still have the ability to perform the same functions they currently provide.

Mr. Thibeault reviews alternatives for the driveway with Commission Members.

Alternative 1. To repair the existing driveway. This alternative was not chosen because of multiple reasons: The repair would have required removal of the bulk of the existing driveway for reconstruction. The construction of a second "temporary" crossing (blue shaded area on map) to allow for access during construction would have been required. Disturbance approximately 1,800 sq. ft.

Alternative 2. Construct new driveway per orange shaded area (on map): This alternative was not chosen because it would have resulted in nearly 6,000 sq. ft. of wetlands disturbance.

Alternative 3. Alternative 3 was chosen because it allows the applicant to cross in the area of the least impact and also provide a replication area of wetlands of better quality than what currently exists. Although not a wetlands issue, the driveway will provide the applicant with a safe access to his property which he will be able to maintain.

Mr. Thibeault reviewed Syl Pauley, Jr., NECCOG Regional Engineer's comments dated 12/2/15 which have been incorporated into the revised plans.

Erik Costa asked about the initial construction of the property: is there anything in place on the deed stating there is only one driveway on the property? Ms. Fraenkel provided a copy of the original subdivision plan from 1988 depicting a common driveway serving both the Hoyt and Jax properties. She said it was likely to have been shown as a common driveway because of the wetlands. Discussion ensued. Ms. Fraenkel stated she did not find anything that prohibits a second driveway.

Chairman Gallant asked if there are any restrictions on curb cuts. Ms. Fraenkel stated no.

Richard Oliverson asked what the distance is between the two driveways. Mr. Thibeault stated it is 45 feet center to center. Discussion ensued.

Chairman Gallant asked what the area of disturbance is for Alternative #1. Mr. Thibeault stated this is not on the Hoyt property so he would be unable to do that, but for the record it would be 1,600 sq. ft.

Erik Costa asked how long the driveway is. Keith Hoyt stated it is 650 feet long.

Deane Rettig asked what would be done with the existing driveway portion that is on the Hoyt property that will not be used. Mr. Thibeault reviewed a proposed landscape island to distinguish the property line.

Chairman Gallant asked if the (recent) clear cutting of trees prior before coming to this commission is in line with this plan. Mr. Thibeault stated yes, the work was done within the upland review area and that Mr. Hoyt had permission from the Wetlands Commission to do so. No stumps have been removed. Mr. Hoyt stated that he appeared before the Commission last year and was granted permission to cut the trees that had fallen down. Mr. Hoyt said he has now cleared all the trees between the 14 foot wide path, except for the top part. Mr. Hoyt also commented that this past weekend he cut down 10 trees within the wetlands.

Ms. Fraenkel asked Mr. Thibeault to review the mitigation plan with regards to organic matter. Ms. Fraenkel asked if another product could be used other than straw. Mr. Thibeault agreed to this request.

Chairman Gallant asked if new wetlands are being recreated. Mr. Thibeault stated yes and demonstrated this to Commission Members on the site plan.

Chairman Gallant asked if there are any safety concerns. Mr. Thibeault stated yes, the driveway is in poor condition.

Deane Rettig asked if there is currently a maintenance agreement between the two parties. Mr. Thibeault stated no.

Richard Oliverson asked who owns the driveway. Mr. Thibeault stated Mr. Jax owns the driveway.

Chairman Gallant commented that unfortunately the reason for this entire wetlands disturbance is because the neighbors do not get along with each other. Mr. Hoyt stated that the driveway has been destroyed from the mining operation over the past 3 years. Mr. Hoyt has been trying over the past 16 months to get it fixed. He has tried a couple of different steps to get this done. The neighbors have refused to fix the damage they have caused. The insurance company has refused to fix the driveway. Mr. Hoyt said he maintains the driveway and cannot put a plow on the driveway this year because the surface is damaged. Mr. Hoyt originally paid for the construction of the driveway.

Chairman Gallant commented that there are other alternatives instead of putting in a new driveway. Another alternative could be from a legal standpoint between both neighbors. This would cause minimal to no disturbance to the wetlands. Discussion ensued.

A motion was made by Deane Rettig to close the public hearing. Erik Costa seconds this motion. No further discussion held. All in favor. The motion passes unanimously.

Continued Public Hearings: None.

Unfinished Business:

1. 081115A Strategic Commercial Realty, Inc., d/b/a Rawson Materials, Jeffrey Rawson President; Off Rukstela Road, Map 30, Lot 16, RA Zone, 115.35 Acres; Removal of gravel and creation of a haul road for access to and from the same.

The application has been withdrawn.

2. 101315A Tina M. Kerouack, 282 Windham Road; Maintenance of driveway with existing wetlands crossings; Improvements for the purposes of increased safety and accessibility.

A motion was made by Erik Costa to approve the application of Tina M. Kerouack for widening and paving of an existing residential driveway at 282 Windham Road according to plans titled General Location Survey Driveway Plan & Profile No.1. Prepared for James L. Kerouack & Tina M. Kerouack, 282 Windham Road, prepared by Killingly Engineering Associates, 3 sheets, dated 9/16/2015 revised through 12/7/2015 with the following condition:

1. No use of lime or fertilizer in the seeding vegetation during the project.

Reasons for Approval:

1. The proposed activity is suitable to the area.
2. The amount of material to be removed from or deposited in the wetlands is appropriate for the proposed activity.
3. The danger of erosion will be minimized by appropriately placed erosion and sedimentation controls during construction as described by Killingly Engineering.

4. The material to be removed or deposited will have little or no effect on flood control, water supply, water quality or aquatic organisms based on Killingly Engineering and soil scientist.
5. Changes in the suitability of the area for residential or aesthetic enjoyment caused by the proposed activity will be minimal.

Deane Rettig seconds this motion. No discussion held. All in favor. The motion passes unanimously.

3. 111015A Keith Hoyt, 13 Hickory Lane, Map 43, Lot 23-20, RA Zone, Construction of a residential driveway with associated grading and proposed 3,870 sq. ft. of wetlands disturbance.

Erik Costa recuses himself.

Richard Oliverson recuses himself.

Discussion ensued.

Richard Oliverson reverses recusal and participates as a voting member.

Deane Rettig makes a motion to deny application of Keith Hoyt for construction of a residential driveway according to plans titled General Location Survey Showing Proposed Driveway Prepared for Keith D. Hoyt & Melissa J. Hoyt, 13 Hickory Lane, Brooklyn, Connecticut prepared by Killingly Engineering Associates, 2 sheets, dated November 5, 2015, revised through 12/02/15. The reason for the motion is a feasible and prudent alternative to the proposed activity exists which will cause less adverse environmental impact. George Sipila seconds this motion. Discussion ensued.

All in favor of denial - Deane Rettig, George Sipila, Real Gallant. All opposed of denial Richard Oliverson. Erik Costa recused. Vote taken 3 in favor of denial, 1 opposed of denial, 1 recused. Application is denied.

A motion was made by Richard Oliverson to approve application of Keith Hoyt for construction of a residential driveway according to plans titled General Location Survey Showing Proposed Driveway Prepared for Keith D. Hoyt & Melissa J. Hoyt, 13 Hickory Lane, Brooklyn, Connecticut prepared by Killingly Engineering Associates, 2 sheets, dated November 5, 2015, revised through 12/02/15.

Reasons for Approval:

1. The amount of material to be removed from or deposited in the wetlands is appropriate for the proposed activity.
2. The proposed activity will have a minimal effect on the water table and drainage patterns.
3. The danger of erosion will be minimized by appropriately placed erosion and sedimentations controls during construction.

4. The amount of siltation and leaching caused by the proposed activity will have little or no adverse effect on water quality and aquatic life.
5. The material to be removed or deposited will have little or no effect on flood control, water supply, water quality or aquatic organisms.
6. The proposed activity will cause little or no changes in velocity, volume or course of water flow or in the water table.

The motion was not seconded. The motion fails.

New Business:

1. Wetlands Agent Monthly Report.

Ms. Fraenkel has reported that today she has taken in a forestry logging application.

Ms. Fraenkel asks Chairman Gallant if the Commission would like to see logging operations to make a determination in jurisdiction or is this delegated to staff. Chairman Gallant reviewed this procedure with Ms. Fraenkel and asked that it be added as an agenda item for next month's meeting.

2. Meeting Schedule for 2016.

All Commission members agreed that the Brooklyn Inland and Wetlands Commission will hold their regular monthly meeting on the second Tuesday of each month at 6:00 p.m. at the Clifford B. Green Meeting Room, 69 South Main Street, Brooklyn, CT.

Adjourn: A motion was made by Deane Rettig to adjourn the meeting at 7:55 p.m. George Sipila seconds this motion. No discussion held. All in favor. The motion passes unanimously.

Audrey Cross-Lussier
Recording Secretary