

INLAND WETLANDS AND WATER COURSES COMMISSION
MEETING MINUTES
OF
NOVEMBER 14, 2023

CALL TO ORDER:

The Inland Wetlands and Water Courses Commission Meeting was called to order by Chairman Peter Nieman at 7:00 p.m. on November 14, 2023 in the Berlin Town Hall, Public Works Department (Room 120), 240 Kensington Road, Berlin, CT. Additionally, the meeting was accessible remotely through Zoom.

ATTENDANCE:

Chairman Peter Nieman, Commissioners: Rick White, David Rogan, Bill Jackson, and Gary Pavano. Absent- Michael Cassetta and John Russo. Staff- Jim Horbal. Guests: Attorney Jennifer Coppola-Ciulla & Donofrio, LLP, and Applicants/Presenters. Via Zoom: Michael Kiely-Berlin Land Trust.

AUDIENCE OF CITIZENS: None.

MINUTES:

The minutes of the October 3, 2023 meeting were previously distributed for review.

Commissioner Jackson requested a correction to the October 3, 2023 minutes.

On Page 5 of 7, under Application 23-10WF is says “The Application involves regulated activity and floodplain filling at 554 Berlin Turnpike, The Floodplain Filling, *and the proposed mitigation within the floodway for the proposed flood storage loss*, will result in a net increase of approximately 750 cubic yards of flood storage volume.”

Commissioner Pavano made a motion to approve the suggestion revision to the minutes of the October 3, 2023 meeting, seconded by Commissioner White. The motion was unanimously approved.

Commissioner Pavano made a motion to approve the minutes of the October 3, 2023 meeting, as revised, seconded by Commissioner White. The motion was unanimously approved.

PUBLIC HEARINGS:

Commissioner Rogan made a motion to open the Public Hearing for Application 23-07W, seconded by Commissioner Pavano. The motion was unanimously approved.

Application 23-07W - Proposal by Sheppard Family Holdings, LLC to re-establish a wetland boundary on Lot 2A, Block 107, 758 Four Rod Road.

Mr. Charlie Talmadge, President, Development Planning Solutions (DPS), was present for the Applicant, and Mr. David Lord, Professional Soil Scientist, also spoke to the Commission.

Mr. Talmadge explained that the Applicant is requesting to officially establish and identify the wetland boundaries on their property. The “open field” property is located on the southwest corner of the intersection of Norton Road and Four Rod Road. At this time, there are no proposals for development.

Mr. Lord, Soil Resource Consultants, Meriden, discussed his findings at the property of 758 Four Rod Road. His investigation was conducted on January 17, 2023.

Chairman Nieman asked Mr. Horbal to discuss their request to have a third-party review of the property. Mr. Christopher Allan, Landtech Consultants, submitted a report to the Commissioners. His investigation of the property was conducted on October 13, 2023. Observations confirmed the presence of a wetland feature on the east side of the property. A short section of intermittent watercourse receives discharges from a 4” diameter pipe and connects to the flagged wetland. Soils within the wetland appeared to match that of the NRCS-mapped Saco series.

Both Soil Scientists concur that there are wetlands on the property and the boundaries have been delineated for the purpose of splitting the property for future use.

Commissioner Jackson asked questions clarifying the wetlands on the low part of the property, and Mr. Talmadge clarified they were speaking of Parcel B (lot 2B). Additionally, Commissioner Jackson confirmed with Mr. Talmadge that the August 22, 2023 Application for Boundary Change from DPS pertained to the Town Inland Wetland and Watercourses Map.

Chairman Nieman asked if there was any further questioning. Hearing none, asked for an action by the Commission.

Commissioner Rogan made a motion to close the Public Hearing for Application 23-07W, seconded by Commissioner Pavano. The motion was unanimously approved.

Commissioner Rogan made a motion to approve Application 23-07W, seconded by Commissioner Pavano. The motion was unanimously approved.

Application 23-10WF - Proposal by 550-554 Berlin Turnpike Associates, LLC to construct an entrance driveway, and site improvements within regulated areas on Lot 14, Block 83, #522 Berlin Turnpike.

Commissioner Rogan made a motion to open the Public Hearing for Application 23-10WF, seconded by Commissioner White. The motion was unanimously approved.

Attorney Timothy Sullivan, Wisniowski and Sullivan, LLC (via Zoom), and Mr. Steve Giudice, Principal for Harry Cole & Sons, were present for the Applicant.

Attorney Sullivan explained that in 2020, the Applicant received approval from the Wetlands Commission to perform activity within an upland review area and flood plain on Lot 14.

Mr. Giudice, Cole & Sons, explained that all wetlands have been field-identified by a certified soil scientist (REMA Ecological Services), and have been field surveyed (report on

file). There are four (4) activities indicated, of which two (2) are temporary, and associated with construction. The other two (2) activities are associated with the filling of a portion of the Flood Hazard Zone required to construct an entrance driveway at a grade as so not to be subject to periodic flooding. The proposed filling does not impact the mapped floodway. The 100-year flood elevation in the area is 41.5 feet. Mitigation for the proposed flood storage loss will be within an area adjacent to the Mattabassett River, which will be selectively cleared and re-graded to compensate for the loss of storage due to the entrance driveway. There will be a net increase of approximately 750 cubic yards of flood storage volume. The proposed mitigation lies entirely within the floodway and at a lower elevation. It will provide additional flood storage for more frequent, nuisance-type flooding events. During construction within the entire site, all proper and necessary sedimentation and erosion control measures will be utilized.

Chairman Nieman asked if there were any further comments. Commissioner Rogan asked Attorney Coppola if she had comments. She wasn't present for the original application in 2020, but felt like the Applicant has presented their information and had no further comment.

Attorney Sullivan additionally requested that the original application from 2020 [Application 20-07WF] be referenced and incorporated into this application.

Commissioner Rogan made a motion to incorporate Application 20-07WF into this application, seconded by Commissioner Pavano. The motion was unanimously approved.

Commissioner Rogan made a motion to close the Public Hearing for Application 23-10WF, seconded by Commissioner White. The motion was unanimously approved.

Commissioner Rogan made a motion to approve Application 23-10WF with Standard Conditions, seconded by Commissioner White. The motion was unanimously approved.

REGULAR MEETING:

Application 23-09W - Proposal by NCBP East Berlin, LLC to construct an impervious outdoor storage area and discharge drainage into a regulated area on Lot 17-2-133-34B, 191 Commerce Street, East Berlin.

Mr. Chris Pawlowski, P.E., Solli Engineering, Monroe, CT, was present for the Applicant. and demonstrated prints as he explained to the Commissioners:

It is the intent of the Applicant, NCBP East Berlin LLC, to modify the existing site to include an additional 35,560 square-feet of outdoor storage area. Below is a brief summary of existing and proposed conditions:

EXISTING SITE CONDITIONS

The site is located at 191 Commerce Street, Berlin, Connecticut within the Planned Industrial (PI) district. The overall site totals approximately 4.0 acres and is bounded by commercial property and wetlands to the west, Connecticut state land to the north,

commercial businesses to the south, and Commerce Street to the east. The site is currently accessed from Commerce Street via two bituminous driveways and consists of an existing 12,310 square-foot building, existing storage areas, parking and drive aisles, and bituminous pavement. The western portion of the site is a brush/woods mix with existing wetlands.

PROPOSED SITE CONDITIONS

The project proposes to construct an additional 35,560 square-feet of outdoor storage area with pavement striping, landscaping, lighting, and drainage improvements. Outdoor storage is permitted within the Planned Industrial district.

The two access driveways will continue serving one-way movements to and from Commerce Street, and two-way vehicular circulation is proposed around the northern, southern, and western building sides. The parking area will provide a total of forty-four (44) parking spaces, which will include three (3) spaces being designated as ADA accessible. An additional thirty-eight (38) deferred parking spaces have been delineated on the Site Layout Plan to be constructed in the future, if necessary. The project proposes a retaining wall with safety fencing along the perimeter located along the western edge of the development.

The stormwater runoff for the site will be designed in accordance with all Town and State regulations. Within the area analyzed for stormwater purposes, the redevelopment results in an increase of approximately 0.84 acres of impervious area compared to existing conditions. Peak runoff rates will be reduced, and water quality treatment will be provided via a proposed underground stormwater detention system. Please refer to the Engineering Report for the detailed stormwater management plan that will be provided.

The proposed site plan modification will maintain its existing utility connections and no additional utility improvements are proposed. (taken from the application description)

Commissioner White questioned the handling of the stormwater. Mr. Pawlowski answered that the Zoning application prints has an Ab-Tech sponge system depicted, and will incorporate into the Wetlands approval plans for the record.

Chairman Nieman asked Mr. Horbal if he was satisfied with the application, and he verified that he has had numerous conversations with the Engineers and is satisfied.

Commissioner Rogan made a motion to approve Application 23-09W with Standard Conditions, seconded by Commissioner Pavano. The motion was unanimously approved.

Application 23-11W - Proposal by Jeffrey Michaud to construct an addition to the existing building within an Upland Review Area on Lot 6-3, Block 90, # 496 Four Rod Road.

Mr. Jeffrey Michaud, Complete Sheet Metal, was present for his application. He is requesting approval to construct a 1,250 square foot addition to a recently built structure housing "Complete Sheet Metal" located along the westerly side, at the base of the hill on Four Rod Road.

The Applicant commenced work on the structure approximately one year ago without securing the necessary permits to which STOP WORK orders were issued. This Commission had previously issued an approval to construct the original building with specific conditions.

Mr. Michaud hired REMA Ecological Services to assess existing conditions. The assessment was conducted on September 13, 2023. They deemed that the risk of any adverse wetland impacts is minimal to negligible. The area adjacent to the building expansion is nearly flat, stable, and maintained as lawn, to the edge of a moderate, heavily vegetated slope, down to the existing wetlands, which are comprised of very sedge, emergent (i.e. wet meadow) and scrub wetlands, with seasonally flooded, forested wetlands further to the north.

Chairman Nieman asked if there were further questions. Hearing none, the application must be tabled until the December meeting.

Commissioner Pavano made a motion to table Application 23-11W, seconded by Commissioner White. The motion was unanimously approved.

Application 23-12WF - Proposal by John Gaggs, c/o StanChem Polymers, Inc., to construct Industrial Improvements within a Floodplain, Floodway, and Regulated Wetland Area on Lot 10, Block 133, 401 Berlin St., East Berlin.

Stephen Benben, P.E., Triton Environmental, Inc. and Mr. Dennis Vachon were present for the presentation. Mr. Benben summarized the project, but in anticipation of a Public Hearing next month (due to public interest), he will offer more detail at the hearing.

The application description (on file) explains the project:

Development Description

StanChem is proposing to construct a new storage tank containment structure and truck off-loading area to improve facility operations and off-loading efficiency. The improvements will be located north of Building #27 currently occupied by a dilapidated miscellaneous storage building, an outdoor concrete-block storage area for miscellaneous site debris and aggregate stockpiles, and an open compacted gravel area used for truck traffic and maneuvering. The existing features are located within the FEMA floodplain/floodway and 50-foot regulated wetland area. To facilitate the planned improvements, StanChem will demolish the existing storage building, building foundation, and concrete access ramp, and will remove the concrete block storage area and existing debris and stockpiles.

The containment structure will be 46' x 46' reinforced concrete structure and will contain up to four 30,000-gallon storage tanks. The containment structure will consist of a reinforced concrete slab with three-foot high walls on all sides and will be supported by concrete piles and concrete grade beams, elevated above the floodplain. The area beneath the structure will allow unobstructed flow of water to flow beneath and around the structure to minimize impact to the floodplain and floodway. The storage tanks will be used to store and supply chemicals for the manufacturing process within the main building, as needed. The containment structure will provide sufficient containment volume in the event of a full tank failure. In addition to the storage tanks, the containment structure will house four new transfer pumps, an elevated tank access platform, elevated product supply lines, and a new elevated electrical service.

The truck off-loading area will be a 100' x 25' reinforced concrete slab directly west of the new storage tanks to provide StanChem flexibility and efficiency to off-load additional delivery trucks. The slab will be pitched to a trench drain in the floor of the slab to collect stormwater and/or potential spills during the off-loading operations. The trench drain will include two outlet configurations controlled by separate drain valves. During normal operations with no off-loading operations occurring, the trench drain will collect stormwater StanChem Polymers, Inc. – Berlin, CT Triton Environmental, Inc. IWWC Application Narrative Page 5 of 10 runoff and direct it to a new stormwater quality basin east of the off-loading area. During off-loading operations, the outlet valve

to the stormwater basin will be switched to a new 6,000-gallon double-walled underground tank will be opened. In the event of a spill, product will be collected by the trench drain and directed to the underground tank. The tank has been sized to contain the maximum spill from the largest tanker truck expected at the facility. The tank will be pumped out on a routine frequency to address any collected precipitation that might enter due to off-loading during precipitation events.

StanChem will be installing a new elevated off-loading gangway and automated control system within the footprint of the off-loading area to facilitate truck off-loading from the top of the trucks. In addition to the gangway, the off-loading area will include a new off-loading pump, access stairs into the elevated containment structure, and electronic pump operations controls.

The proposed site improvements also include installation of permeable pavers south of Building #50. The permeable pavers will provide a non-erodible surface to allow StanChem to park vehicles and/or empty tankers adjacent to Building #50 and control stormwater runoff.

The proposed project will involve site work in the surrounding area and consist of removal of earthen stockpiles in the area and rough grading to the project area. The complete site improvements will provide stability to the area and allow stormwater runoff to be directed to the Mattabesset River. Wetland and Regulated Area Impact

Wetland soils near the area of the proposed project are located along the western border of the property associated with a manmade drainage swale and along the east border of the property adjacent to the Mattabesset River. The manmade drainage swale conveys surface runoff from offsite and from portions of the western portion of the property to the Mattabesset River. Surface runoff from the project area currently flows east to the Mattabesset River.

The wetlands near the proposed improvements are lightly wooded, and include tree species such as Red Maple, shrub species such as Silky Dogwood, Morrow's Honeysuckle, StanChem Polymers, Inc. – Berlin, CT Triton Environmental, Inc. IWWC Application Narrative Page 9 of 10 and Multiflora Rose, herbaceous plant species such as Skunk Cabbage, Field Horsetail, Yellow Iris, Trout Lily, Sensitive Fern, and Phragmites, and vine species such as Asiatic Bittersweet. Phragmites, Multiflora Rose, Morrow's Honeysuckle, Yellow Iris, and Asiatic Bittersweet are exotic invasive plant species and are a major component of the wetland.

The project area is currently occupied by the existing storage building and aggregate and debris storage areas and are located within the regulated area as described above. The proposed improvements would replace these existing features, improving the aesthetics of the area, improving the water quality of the runoff, and restoring a portion of the wetland buffer and natural resources with the planned vegetation within and around the water quality basin. A native New England restoration seed mix will be utilized within the disturbance areas, which contains native and naturalized grasses that germinate quickly to stabilize recently disturbed soils.

There will be a minimal impact to the wetlands east of the water quality basin. The basin is designed to discharge runoff from large storm events through an overflow spillway. The spillway will discharge onto the existing embankment leading to the edge of the river. To eliminate the potential erosion of the embankment, the flow path will utilize riprap stone armor as erosion protection on the steep slope of the river embankment. The proposed tank structure and off-loading area will be located outside of the delineated wetland areas onsite and sufficient space has been provided to allow for site excavations to not disturb the wetland areas. 4.2 - Floodplain and Floodway As noted above, the site is located within the floodway and associated floodplain of the Mattabesset River. The site is located within the SFHA Zone AE, which has a base flood elevation (BFE) of elevation 28.0' (NAVD88). The proposed tank structure and off-loading area are in an area of the property that is within the FEMA delineated floodplain and floodway. The proposed tank structure will be designed to withstand the forces exerted on it by flood conditions and will be supported by concrete piles to elevate the containment structure and tanks above the BFE, with only the concrete piles occupying space within the floodplain. The proposed grading and earthwork associated with the project will result in a StanChem Polymers, Inc. – Berlin, CT Triton Environmental, Inc. IWWC Application Narrative Page 10 of 10 net export of 220 cubic yards of material, which will result in additional storage capacity in the floodway/floodplain. Construction of

the off-loading area will not impact the floodplain storage as its construction will result in a net zero increase in capacity. As such, the anticipated impact to the floodway or floodplain will not increase the existing base flood elevation. 4.3 - Alternatives Assessment Prior to the development of the proposed plans, StanChem considered various alternatives to building within the regulated area and floodplain. StanChem performed an overall site evaluation for potential alternative locations based on the existing traffic patterns, manufacturing building location, developable area, wetlands, and the floodplain. Based on the results of the evaluation, StanChem believes the proposed location will provide it with a practical solution and will have the least impact on the existing natural resources. The project area is located next to an area of existing tanks (east of Building #27), which keeps the storage operations located in a central location. There is limited space outside of the floodplain and 50-foot regulated area, with no space available adjacent to the main operations building. Installation of the tanks near Building #27 minimizes the length required to install the overhead supply lines and electric services needed to supply the operations, reducing the potential impact with onsite traffic, resulting in a safer work environment. Additionally, by removing the existing building and storage areas currently occupying this portion of the facility, StanChem will provide benefits to stormwater quality and establish a vegetated buffer upstream of the wetland. 4.4 - Soil Erosion and Sediment Control StanChem will establish sediment and erosion control measures in accordance with the sediment and erosion control plan prior to the initiation of construction activity. The proposed improvements will be completed in the anticipated construction sequence included on sheet C4.0.

Commissioner Jackson questioned how one would set up a site visit before the next meeting. Mr. Benben answered that he should set an appointment with Mr. Dennis Vachon of Triton Environmental.

Commissioner Rogan made a motion to set a Public Hearing for Application 23-12WF at the December 5, 2023 meeting, seconded by Commissioner Pavano. The motion was unanimously approved.

Other Business to Come Properly Before the Commission

A) 1906 Berlin Turnpike, LLC

Upon request by the Commissioners, Mr. Horbal obtained a third-party review of the property at 1906 Berlin Turnpike. Land Tech Associates provided an on-site investigation of the property on October 11, 2023. After due diligence, it was their opinion that no wetlands or watercourse features occur on the site. However, the original resource feature that was previously flagged by others as a wetland, functions as a drainage ditch that receives stormwater run-off from the impervious surface of the Berlin Turnpike. Water discharged into this basin apparently infiltrates into the gravelly sandy loam formation.

Mr. Horbal indicated that Landtech agrees with the Applicant and the report was forwarded to the Planning and Zoning Commission for their reference.

Commissioner Rogan made a motion to accept the Landtech report for 1906 Berlin Turnpike, seconded by Commissioner White. The motion was unanimously approved.

B) Application 20-07WF- Proposal by 550-554 Berlin Turnpike Associates, LLC, to construct a Multi-Family Development and associated appurtenances within an upland

review area, floodway and floodplain on Lot 13, Block 83, #522 Berlin Turnpike. Request for Permit Modifications.

Attorney Timothy Sullivan, Wisniowski and Sullivan, LLC (via Zoom) spoke on behalf of the Applicant, 550-554 Berlin Turnpike Associates, LLC. The Applicant is proposing to reconfigure properties previously assembled that were part of ABC Supply Company-Residential Housing Complex previously approved by the Commission. The requested permit modification applies to Lot 13 and would include removal of building #3 which will have no impact to the requested disturbance of upland review areas and will not impact activities in regulated areas or the wetlands located in the FEMA Flood Hazard areas.

The Commissioners had a couple of questions for clarifications, and Mr. Horbal added that the overall impact to the area is less than what was previously improved and the setbacks are the same as mentioned during the Public Hearing tonight for Lot 14.

Commissioner Rogan made a motion to approve permit modifications for Application 20-07WF, seconded by Commissioner Pavano. The motion was unanimously approved.

C) Notice of Violation – Old Brickyard Lane

Mr. Ian Cole, LLC, Professional Registered Soil Scientist/Professional Wetland Scientist, was present for Mr. Coccomo. He explained that Mr. Coccomo couldn't attend at the last minute, and asked him to present his findings at Old Brickyard Lane. Mr. Cole evaluated the property boundary lines and proposed restoration activities.

Mr. Brad Wainman and Attorney Bob Martino, 245 Old Brickyard Lane, were present and explained that they haven't seen any restoration attempts on their property and want NO maintenance on their property, and want it returned to its normal state to deter anyone from accessing the pond and hanging out in the area. The topography has changed so much that they can't find the pin any longer. They feel that the other property owner has also been violated. They want plantings and a 6' chain-linked fence with growth so there is no visibility.

Chairman Nieman again stated that the Commission would require an as-built, topographic map of the property showing the disturbed areas, and a Vegetation Restoration Plan.

Mr. Cole said he would relay the information/urgency to Mr. Coccomo. Mr. Horbal explained that he sent the show cause notification certified mail (which was returned) and by regular mail (not returned) for the October meeting. Mr. Wainman suggested that Mr. Horbal send Mr. Coccomo the memo from Mr. Wainman that states their expectations for restoration. Mr. Wainman additionally requested that a meeting between Mr. Horbal and the owners be scheduled so they might clearly explain their expectations before taking things to the next level.

Correspondence:

Commissioner Jackson attended the Connecticut Association of Conservation and Inland Wetlands Commission (CACIWC) conference [November 11, 2023] and he

distributed a Cease & Desist 'template' that guest speaker Attorney Janet Brooks discussed at one of the workshops.

Attorney Jennifer Coppola additionally distributed some information from the UCONN Training course offered to Wetlands Commissioners. On-line, eight (8) hours to be completed within 60 days. She additionally mentioned that certification for Zoning Commissioners is different than Wetlands Commissioners, but she would highly recommend the course.

Mr. Horbal commented that he customarily works with parties on compliance one-on-one to avoid the escalated legal actions, and typically issues are resolved amiably.

Commissioner Pavano mentioned the Notice of Appeal from Little House Living, LLC. Attorney Coppola explained that she has obtained the paperwork/transcripts etc. and is prepared to represent the Wetlands Commission in the case.

Commissioner Jackson questioned Attorney Coppola about the voting process the night of the Little House Living application and she explained the procedure that was followed.

ADJOURNMENT:

Commissioner Rogan made a motion to adjourn the meeting at 8:50 p.m. The motion was seconded by Commissioner Pavano. The motion was unanimously approved.

Lecia Paonessa
Recording Secretary

RECEIVED FOR RECORD
BERLIN TOWN CLERK



11/20/2023, 2:28:53 PM