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# TOWN OF NORTH BRANFORD

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## MINUTES

### REGULAR MEETING

### NORTH BRANFORD CONSERVATION & INLAND WETLANDS & WATERCOURSES AGENCY

Wednesday, July 23, 2025 – 6:30 p.m.

Town Hall, 909 Foxon Road, North Branford

#### 1. CALL TO ORDER and ROLL CALL

Member Brigano called the meeting to order at 6:33 p.m.

#### ROLL CALL

**Present:** Member Brigano, Member Fischbach, and Member Whitworth.

**Also Present:** David Perkins, Town Planner and Marie Diamond Town Council Liaison.

**Not Present:** Chairman Scavo, Member Galdenzi, and Member Joiner

#### 2. PLEDGE OF ALLEGIANCE

#### 3. MINUTES

- Meeting of May 28, 2025 and June 18, 2025

**Motion:** To approve the meeting minutes of May 28, 2025.

**Moved:** Member Fischbach

**Second:** Member Whitworth

**Discussion:** None

**With all in favor, the motion is passed.**

**June 18, 2025 minutes to be tabled until the next meeting.**

#### 4. PUBLIC HEARING AND POSSIBLE ACTION

##### A. Appl. #2025-2, West Pond Road/Glenwood Road – application for subdivision for six (6) lots.

*Owner/Applicant: BIC Investment Properties LLC, Bruno Ciccone. (Continued from June 18, 2025)*

My name is Annette Ellis. I'm a licensed professional engineer with Giuliano Associates in Wallingford. I'm here representing BC Properties LLC, Bruno Ciccone. This application is for a

six-lot subdivision on a 30.9-acre parcel. Having access to both West Pond Road and at the end of Glenwood Road.

Since this is a continuation, I have presented everything twice, but I want to go over what's changed. Since the last meeting, Ian Cole, registered soil scientist and professional wetland scientist, flagged the wetlands in the vicinity of the driveway crossing for lots one and two, as requested by the Commission. His evaluation was emailed to Town Planner Perkins on July 15th, along with the revised plans and Mr. Cole's delineation is a reduction in the wetlands compared to Elizabeth Young's flagging in 1994 and reviewed in 1999. And I just want to point it out on a map to you showing the wetlands crossing plan and the bold line with the triangles on it is the new delineation and what's highlighted in the yellow is the old delineate delineation. So, you can see that it has gotten smaller. You can also see it in the colored print here. There's actually a little section of uplands that wasn't delineated like that before. In addition, while formalizing the culvert calculations for Mr. Perkins, I found an accidental error in them and correcting it allowed me to make the box culvert smaller. So, it's now proposed to be 3 feet wide by two feet high and it will still pass the 100-year 24-hour storm. Having a smaller culvert allowed me to reduce the grading and also the length of the culvert, so we ended up with less wetland's disturbance and between Mr. Cole's updated delineation and the revisions that I was talking about; the disturbance had been reduced to 2,872 square feet. This is a 54% reduction from the 6278 square feet disturbance we started with. As I mentioned last time, according to the Connecticut Deep Natural Diversity Database, there are no state or federal listed species or critical habitats on the property. However, since there were questions about wildlife and vegetation. Ian Cole has joined us tonight and at this point I'd like to turn the presentation over to him.

Good evening. For the record, Ian Cole, professional soil scientist, professional well and scientist out of Middletown, CT. Since your last meeting, I was contacted by the applicant and by Giuliano Associates to provide updated focus wetland delineation at the crossing site and to provide a wetland impact analysis and report. For the commissions wetland application to provide a complete application for the for the project. To that extent I know the Commission had the benefit, taking a site walk here. The property is 30 acres. It's wooded. It's at the end of Glenwood Road. There are two main wetland systems on the site. There's a wetland, a forest or wetland system, and the northwest side of the site kind of outside of the development envelope. The other is on the southeastern end of the site, we have a large force of wetlands up here that constricts down to a narrow intermittent watercourse that kind of cascades off the property, exiting the southern extent, draining to the Notch Hill Brook watershed. The crossing site, the proposed crossing site kind of takes advantage of the natural lay of the land. If you took a site walk out there, they staked the center line of the road. So, it's pretty evident this is an area where the topography kind of constricts down. You have this till upland area on either side of the wetland and then you have a narrow watercourse. The watercourse of this area is roughly 3 feet wide in my report dated July 10th to the Commission, there's a couple of photos in the back that show the conditions of that water course, and I think the show that there's a really good channel that really kind of shows like this is the functional part of the well. And that's got to be crossed with the provided updates that Giuliano Associates provided with the 36 foot long 3 sided box culvert that's going to provide stream continuity and the way it will be set in the ground and the way the driveway is constructed at grade, it will not provide a barrier for wildlife movement.

It will not change the dynamics of the stream. Long term impacts are kind of negated from the fact that you don't have to move that watercourse at all with that box culver which is a nice feature. From a function of value standpoint, the crossing with the box culvert maintains the existing function values. The main part of the island up here, its primary function value is groundwater recharge and discharge and flood flow attenuation. So, you have Clear Lake and West Lake, north of this site and you have the West Lake neighborhood kind of up here. You have West Pond Rd. neighborhood over here at Glenwood Road there is all woods in the south all

the way down to Route 1. So, you have this big force and corridor, along with this walled up your access flood attenuation during storm events, but it's not impacted from any of the activity that's being proposed. Business activities downstream of that. And again, it's in the constricted part of the wetland. So, it's not going to have any effect on the wetlands.

As Annette had stated, he also reviewed the national database, and not to say it's a catch all to say there could be nothing on the site, but it's a notification. If you look at the site you will see there are not only polygons, but they are all centered on the lakes on the north side of the property. So, you know, I would surmise doing lots of entity B applications that most of the species in this surrounding area are kind of tied to those lakes that have an affinity for those lakes. So, they're probably more aquatic species or insect species. You know, this is an interior forest. These areas don't have permanent standing bodies of water as those do up there, so you know, there's nothing particular when you walk through this forest system that points out that, you know, there's a rare soil type. There's a rare geological feature. You know, there's some kind of vector there that would suggest, hey, you know, there's rare threat and wildlife species in this area, you know general wildlife species and I don't see any activities that are being proposed here that would have a negative effect on that generalist either.

Member Whitworth mentioned that when they did the site walk, there was mostly trap rock. Are there any sandstone in that area? Mr. Cole responded that most of the terrain is basalt. The wetland soil types in here so that the deeper interiors this cat has in fact had that Freetown soil. But the soils here I was actually surprised the red parent material, soil pipes. So, it's that that Menlo and that that comes off of that trap rock the salt type stuff. So, you know there's you know.

Member Fischbach stated that central wetland you're referring to it only shows on this map to the boundary of the property to the northeast. Is there any drainage at that wetland in that direction, or does it all go downstream? Mr. Cole responded that he would have to look at it, but for the most part the images within the system and also from the site walk he took on the property were in the area where all of the activities would take place. To him it looked like this flat basin in the year that floods out say a foot maybe 2 feet, at peak season when it hits 2 feet it bleeds out for a certain period of time until the water table recedes and then this cuts off. To dovetail on the wildlife, it's to have the understanding it doesn't provide like long term finfish habitat or cold-water fisheries or anything of that nature.

Member Fischbach stated he agrees, but the surrounding forest does support box turtles. Those are not aquatic species and I've seen them there. Mr. Cole responded that there is no doubt the forest system could support eastern box turtles having more of an affinity for an edge and open habitat.

Member Fischbach asked about the water that fills that central wetland; Where do you suspect the majority of that comes from? Mr. Cole responded that it's coming from the watershed that's south of Westlake Rd. It's also coming from groundwater discharge. So, it is both surface water and groundwater driven. While you have this glacial till at the ridgeline that comes up here the soil is wet. It is sandy outwash underneath. Member Fischbach asked Mr. Cole if he would agree that if one disturbed the upland portions around this, would that have any effect on the wetlands? Mr. Cole responded that it would not, based on the distances being proposed. Member Fischbach clarified he has no issue with the culvert. He is talking about the wetland itself. It is surrounded by higher areas. Mr. Cole responded no, with the limit that you're clearing, you're still providing a forested buffer that could attenuate any kind of runoff. You're not going to impact, or change any of the groundwater dynamics to this wetland? You know, all these septic systems are approved by the health department. If you look at resource mapping, another thing that you kind of look at for sensitivities are if this is an aquifer protection area, or any high groundwater

sensitivities. The topography, while there are some high points up there, the grades themselves are kind of gentle, and he doesn't see a condition where even though you have steep grades on lot 6, he doesn't feel it would create erosion issues. From a site control standpoint, I don't really think you'll get a lot of material moving on this site. So, it's going to kind of be in place when they do their construction.

Member Brigano asked if Mr. Cole would address the report that was submitted regarding rare species of habitats. Mr. Cole responded for this project, one of the things that you do with screening tools is you go to the Connecticut Department of Environmental Protection, and you look at their database. They have a screening tool you put in the address, and it brings up a Polygon of the site and they reference that with all of the state historic records for known listed. And the state has pre mapped. You know where they've had other records for other projects and so you know, while it's not a catch all to say that there's nothing occurring on the property what it's what you look at is in the context of the landscape position like are there a million other polygons nearby like tied to some wetland that's tied to this. Is there so none of those conditions are present on this property? Like I said, there are polygons to the north, but they're all centered around that. That clear pond West Lake Rd area.

Member Brigano asked Mr. Cole if he had spoken with anyone at DEEP. Mr. Cole responded there is no one to directly speak to at DEEP. Member Brigano stated that one of our residents, Ms. Symansky was able to contact DEEP and speak with Jenny Dixon. Mr. Cole stated that Jenny Dixon is a wildlife analyst at DEEP. Member Brigano continued stating that Jenny Dixon mentioned that adjacent to the property there are federally and state-listed species that are endangered. Which you seem to be pushing off, but this tells me that adjacent to me means it's right next door, and unless something has changed, animals do move and she specifically talked about the five-line sink, which is an endangered species in Connecticut. So, it doesn't seem to me that the homework has been done yet, because you have not reached out to DEEP, because our resident has reached out to DEEP and they've identified endangered species adjacent to this property, which I'm concerned about.

Mr. Cole stated that they can absolutely contact DEEP directly for that specific species. Member Brigano continued stating that it seems you didn't really dig deep into this property, did you complete a site walk? Mr. Cole responded that he completed an onsite walk for the deletion and to and to categorize and provide context for an ecological context of what's out there.

Mr. Cole explained that they are willing to coordinate with the Commission, but just for the Commissions understanding there has been no formal permit trigger. Typically for DEEP to trigger a formal consultation to get the natural diversity database determination letter, you would need to have a state permit trigger. In this instance if you had more than 5 acres of disturbance which imagine you would have no state permit trigger to require an actual return. They are willing to reach out to DEEP for their consultation to see if they would informally provide us with a list. So, what you typically do on a project, right? You have a state permit trigger you contact DEEP; you ask them to review your project, they spit you out a list of hey, there could be these seven species on your project. Now go do a survey for them and tell us what best management practices you're going to put with the project so that you don't have an adverse impact or an adverse take for that species.

Member Brigano asked if Mr. Cole could contact DEEP about that species adjacent to the property. Mr. Cole responded that they could reach out to them, but the problem is, they may not respond. They may a lot of times get a response back of we only review state trigger permit triggers. So, with that being the case, I would never know what the off-site species are because they would never provide you with a list.

Member Brigano fails to understand how a resident can contact and speak to someone at DEEP, but Mr. Cole doesn't feel he will receive a response.

Member Brigano said that there are endangered species adjacent to the property, and endangered species are not fixed, they move. If they're concerned about endangered species because it seemed to me that it's more than one species, based on your information and these are resonance and information, we need to understand what all these species are and what the risks are to them. That is a requirement of the Commission, it is in our regulations.

Attorney Tim Lee, 107 Montowese St. Branford who is representing the applicant. With respect to what Mr. Cole was saying, I think the Commission is getting a little bit beyond what their jurisdiction is. So, the jurisdiction of the Commission is not to protect endangered species, which may be on another property, the Commission, has jurisdiction over inland wetlands on our property if we're doing something. The inland wetlands, which would impact or affect the ability of a species who relies upon the wetlands for their survival, then I think the Commission has the right to regulate that application. If we're talking about endangered species that may be off on another piece of property it is felt that the Commission is going beyond what they're tasked with doing.

Member Brigano disagrees and asks if Attorney Lee has a copy of our Commission regulations. Our regulations specifically state that we can ask for information about endangered species and unless you know something that animals do not move, and they stay stationary. Adjacent means it could go on that property and that should be looked at.

Attorney Lee stated, while I appreciate that animals can travel and I think, but I think when you're evaluating the wetlands application, you're going to evaluate whether anything on this project is impacting the wetlands in such a way that it would impact one of the endangered species. So, I think that should be the focus of the analysis, not whether endangered species exist on another property. But the real question is, is there anything that is activity that's occurring on this property regard to the wetlands that would affect those species' ability to survive?

Member Brigano stated that it is what we are asking for Mr. Cole to reach out to DEEP like our resident did. Speak to DEEP, ask them for a letter and clarification on adjacent endangered species that are within or adjacent to this property. That is not an unreasonable ask and is within our jurisdiction.

Attorney Lee also stated that a further caveat is that they would need to say, make it a termination as to something that is happening on This site is affecting the habitat for those endangered species in such a way that they cannot survive the construction of the homes could be endangering them.

Mr. Cole provided a copy of the Connecticut DEEP Natural Diversity database map to the Commission, and it's hard to see here and I'll submit it for the record. There's a little red circle. That's our project site and the reason I'm sure this just for context. So, these polygons are the known locations or their stuff. And like I was saying, you know, there's known populations to the north of this site and to the east. As I stated, for the record, this site drains to the South, so you know the wetlands on this site, the site where everything is draining away from those areas. But you know I'm just putting it for, you know, for context.

Attorney Lee stated I think if you're saying building a house may cause an impact to endangered species, which may be true. But once again, this is the wetlands Commission, and you're charged with evaluating the application as it may impact a wetland. What I've heard from Ian is that he may not be able to get you asked nicely. He may not be able to get you that information as he

explained that when you go to DEEP and you explain the process that you go through to get the information from DEEP. DEEP does generally does not generally give that information in the letter format that you're requesting.

Mr. Cole stated that as a consultant he would need to go through the formal process to get a letter from DEEP. If they're willing to review it, absolutely. We can reach out to miss. They could send it directly to their supervisors or whatever. He is not opposed to that at all. I'm just trying to explain to the Commission the traditional path is and how one would go about, you know if you got a permit.

Member Whitworth asked as the question has been raised by Member Brigano about the species in the adjacent property, would answering it formally or informally would it unduly delay the start of the project in any way? Mr. Cole responded, regardless, nothing would really change. As there is a restricted crossing point to decrease the wetlands disturbance.

Member Whitworth continued stating that I think the Commission has been very gracious as far as being receptive to input. I mean, the site walk was very informative. I don't think there's any desire by anybody to unduly delay the work unless we absolutely have cause to do so. It's just information, you know, let's just get the information.

Member Brigano stated that his concern is a resident has raised concern, and we should be respecting that individuals are concerned for the species and if there's one endangered species, there can be others and our regulations do talk about endangered species and if she did identify an endangered species, she did bring it to our attention. And I think we have a responsibility as a Commission. As a Commission to respect her request and look into it, and that's all we're asking you, as my colleague said, is just reach out and talk to this lady and see what you can find out that information.

Member Whitworth had a question for Ms. Ellis. Within your revised sample, your findings allowed for the reduced size of the culvert, and you said that the reduced size will handle the 100-year floods. Lately, we have been getting 500-year floods. Is there an opportunity perhaps for additional value engineering, or is that size culvert locked in? Ms. Ellis responded that it is. I'm not sure that we're even required to pass as large of a storm as we are. However, I would not be comfortable making it much smaller just for things you know, like debris getting hung up and things like that. I mean, I'm happy we were able to reduce it from the six foot by three foot that we had. It was definitely good for the grading but, at this point they have reached the best solution.

Member Fischbach had a number of questions. The site walk was a bit unorganized, and groups split up and he didn't get a particularly good explanation of a few things. One of the items with written in the revised plan. There was a change to one of the driveways approaching one of the houses. Ms. Ellis responded that the driveway for Lot 3 was moved, not that it has any wetlands impact one way or the other, but it was moved to reduce the grading. That was the only reason for that change. The other change to the driveway is the driveway that goes through the wetlands. I put a cross slope on it and proposed a swale so that lots 1 and 2, any runoff from the driveway would filter through the swale before it reached the wetlands. The only other change was since there is a rule that you can only have two houses for one shared driveway. I think that pertains to rear lots, which is not necessarily what we have here, but to be safe I did split it up so we have one driveway that goes to Lots 5 and 6. Lot 4 has its own driveway, so we're complying with that just in case. That driveway that is paralleling or right next to the median, which is just grass in between.

Member Fischbach also stated that during the site walk he noticed that one of the driveways literally went over a cliff, and then it goes up on the other side. Ms. Ellis responded they are not proposing any steep slopes. Member Fischbach was more concerned with the bottom of the proposed driveway path. That's actually a drainage swale. There's plenty of evidence there that with heavy rains water actually runs through there, so if that were to be filled the water is going to be backed up somewhere. In order for what I saw to work, it would require a lot of filling. Ms. Ellis stated that if we are holding off until the next meeting, she would run a profile through the driveways so you can see the cut, fill.

Member Fischbach stated the reason he is asking about the higher grounds and how much water there. For Lot 5 could be lot 4. Those lots are on top of the ledge where there are trap rock hills and when a lot of excavating or whatever amount of excavating up there is done, that's going to affect the sheet flow down into other areas, particularly the wetlands. The water at I believe Lot 6 would be going in two different directions, some of it towards the driveways and some of it going towards the wetlands.

I don't see that developing Lot 6 is going to be a major problem, but it seems to me that it is due to the location of the cul-de-sac. That this project is going to require, you know, I think it's extreme disturbances in order to reach when you come off that cul-de-sac and you had to the right to the water crossing, you've literally got to take out a rock hill and then have to do a lot of grading to soften the slope which would cross over the existing road. It seems to me that a lot of the disturbances could be avoided if we used the existing road in one part or another. If you move the cul-de-sac, it will mean loss of a parcel. That brings me to the paper road as it is a big question. It's still a big question as to whether the paper Rd. is going to pass. I first thought about the paper road, and I kept saying, well, this isn't really a wetlands issue. This is more zoning thing with the town. But after giving it a lot more thought I really do think it's a wetlands issue because what is a paper road. A paper road really is just on paper. It doesn't really exist, but if the pathway is there, if that pathway belongs to lot #6, what's to stop somebody in the future? What could happen with the paper if the paper road is not accepted? Either by Wetlands or possibly not by P & Z, then that changes your whole project. Ms. Ellis said if access was not approved it would drop it from 6 lots to 5.

Attorney Lee stated that he is aware of the road for lot 6. We believe it's a zoning issue, not necessarily a wetlands issue. It is ultimately up to P&Z if access complies with subdivision regulations or doesn't. If P&Z finds that access is not consistent with their regulations, then we're going to be back before you or that lot would be eliminated. Member Fischbach responded back to Attorney Lee that you said that the lot would be eliminated and that the lot doesn't necessarily have to be eliminated. Attorney Lee agrees, but I guess ultimately, the Planning and the Zoning Commission has to determine whether this plan as designed right now complies with the subdivision regulations or does not comply with the subdivision regulations. And I think they're the entity that ultimately makes that determination when this application is before them, they're going to approve it or deny it. I understand the applicants' design and I received a call from the Town Planner who expressed concerns about the design, but ultimately, it's the planning and zoning Commission that that's going to make that decision. So, we're just asking you to evaluate the plan as you see it today, based on the impact to the wetlands as it's designed. And then assuming we get through the wetlands Commission, we'll take our chances with Planning & Zoning. If Planning & Zoning disagrees with our position, then we will have to figure out how to redesign the plan to lose a lot.

Member Brigano said if we approve this, we are blessing it for Planning & Zoning to put in a cul-de-sac road. Member Fischbach expressed concern, I'm not really happy about a lot of things on

this and one is just the disturbances to get to lot 2 and I don't. I'm not talking about the brook crossing. I'm fine with that. You know, I've seen a lot worse than that. I mean, this is good, but then to get over to the brook crossing, you take out a huge rock hill, excavating that to have the driveway and then you have to fill in. There's much easier ways to get there but the fact is the cul-de-sac was situated there to conform with the regulation that requires no more than 1000 feet. Cul-de-sac cannot be more than 1000 feet from the nearest intersection, and that's where you placed it, correct. Ms. Ellis confirmed that is correct.

Member Fischbach continued stating that if that cul-de-sac were allowed to go in another 80 to 100 feet. You would be able to use the existing road in there, which is stable and you would have to make road improvements, but you could use the existing road in there to gain access to crossing Lot 1 and 2 and also go north to lots 4 or 5 and 6 without doing major excavation at the base of Lot 6 which is complete rock hill. That's not very stable. If you look at it, it's all boulders. We have a major excavation at the bottom of Lot 6 in order to have driveways going up to Lots 4 and 5 and you have major excavation to get the road over to the crossing, whereas if the cul-de-sac went in a little bit further, you've got easy access to everything with far less disturbance, and that's my position on this. If you had to eliminate a lot, and you will if the access (paper road) is not accepted. My suggestion would be to eliminate lot 3 and not lot 6 because I think most people would think Lot 6 should go because it's crazy, but it's doable.

Attorney Lee responded that I appreciate the comments, and I understand where you're coming from and we'll see what happens down the road in, in terms of the issue with the driveways, I'll defer to Ms. Ellis and Mr. Cole, but I think ultimately the issue is that does any of that activity impact the wetland and if the activity that you're describing that you're concerned about, which doesn't impact the wetland then I'm not sure it impacts the site, but it may not impact the wetland and therefore it's not problematic from your Commission's perspective. But I do think it affects, I think all the disturbance does affect the wetlands and maybe creates more wetlands.

Ms. Ellis stated that the subdivision could be designed in a million different ways and there are disturbances, there's grading, there's always grading. Unless you have a completely flat site, which clearly this is not. We went on the site walk. These are some of the reasons that we are only proposing 6 houses on 30.9 acres. We are trying to be respectful of the wetlands and the upland review area being other than the crossing for the driveway. We're really not even in the upland review area and as Ian mentioned, we're holding that silt fence as the clearing limit it it's not a lot of clearing when you look at the size of the lot and also the disturbances are so far away from the wetlands that they're not going to have any impact on the wetlands. I can understand your concern, but you know, as Attorney Lee mentioned, it's not impacting on the wetlands.

Mr. Cole stated that one thing I would say kind of like looking at this project right from a civil standpoint. So, the upland areas where their activities and a lot of these areas, especially in this zone, right? You have this ridge line of trap rocks and shallow soil. So, the soil type throughout here is a wholly oak soil. The shallow soil that's basically over bedrock that you can peel apart with a big machine. I would argue there's some cuts through there. The ground is very stable and the fact that it's all rock so by virtue of the ground is hard and compacted. You have hard civil work, but it is manageable. The fact that you don't have highly erodible soil it's kind of everything is in place. The activities and saying, you know, they are over 100 feet away from all violent boundaries proper. So, you know, you could take this hillside down. And I don't think you're great about. And the reason for that is it's so this is locked steps Lot 6 right here. So, they got to hammer out a lot of rock for a lot coming from the driveway, so the concern is, hey, is this excavation going to expose some groundwater seed that then floods out the area? I don't think that's the case now.

I hear what you're saying that there's concentrated flow, but that's when the surface and the surface are being compacted and hard. So, you have surface runoff in those concentrated areas. But once this is kind of hammered out and you get this terrace built in here in the exhibit that is down, it's not like you're going to expose some groundwater seed. There's really kind of not a big watershed, right? You got this knob that's kind of sitting in between these wells' areas and those areas. I see what you're saying is like the type of site work here. It's just I think it's just hard ground because the ground's armored, but there's nothing here that's like extraordinary that you haven't seen built around. You know, there's a big subdivision around this that dealt with the same issues. It was the same type of site work. It's not like you're rolling up on a site that's deadpan flat. It's all sand.

Member Fischbach asked the Commission if they were in agreement that the paper road is not a wetlands issue. Member Brigano said if we approved it, it becomes not a wetlands issue. But unless we put a caveat in there, a restriction that is a road goes in there it has to come back to the Commission. If we put it in there, nothing can go through that area.

Ms. Ellis explained it is not a paper road. The paper road implies that the right of way is going to belong to the town. You're just not building a road through it. It is not wide enough for a road. It is a 25-foot strip. It's never intended to be a road. It's not even intended to have a driveway. It's a 25-foot access strip to lot 6.

Member Whitworth asked if this road is not going to be there's nothing there today other than the lines on that piece of paper and you don't intend on putting anything there, so it's all wild brush and trees, etcetera. They're going to be in wetland, that's going to stay wild, brush and tree. So why even put it there, why put it on there?

Ms. Ellis responded that it's there because there's a rule that says on a dead-end cul-de-sac street, you can only have 12 lots with sole access to that street. Sole access with the existing lots that have access to Glenwood, there are 7 and with the addition of this 6 we'd have 13. Which is too many to have sole access. So, LOT 6 technically has dual access. Access doesn't necessarily mean a driveway, it means it has frontage, and it has frontage on 2 streets. Lot 6 has frontage on Glenwood and West Pond. It's like if you build a house on a corner lot, you're not putting a driveway out to both streets. Putting it out to 1 so Lot 6 is going to have a house with a driveway to Glenwood Rd with access to West Pond Rd, but we're not proposing an access driveway there.

Member Brigano asked isn't the intent of that the reason why that regulation is in place is the intent that, God forbid, emergency vehicles need to get in there. They have access, a way of getting there. That's how I understood the regulations to be that our fire trucks and police and ambulances would have an access way to get to that lot. That's why the regulations are in place, because if it's not cleared right and they don't have access then what is the point of the regulation?

Town Planner Perkins said it's a P & Z issue. They're not proposing activities in the wetlands. Member Brigano said but if it goes to P & Z if they say they have to put in a paper road in there right, they can't until they come back to the Commission. Well, I hope that's the case because it hasn't followed through that way lately.

Member Fischbach asked if we could do a tentative approval depending on the decision from P & Z on the access road.

Attorney Lee responded that you are not able to do a tentative approval. I think you can make a decision on this application and that we go to Planning and Zoning and Planning and Zoning

approve it. Then we're off to the races; if Planning and Zoning says no, we don't buy the argument that that is that 25-foot strip is considered an access. Then we have to reconfigure the plan in some regard.

We would love to get it resolved prior to going to Planning & Zoning, but the problem is the statute requires us to come to wetlands first and to get a decision by the Wetlands Commission before Planning & Zoning Commission can act upon the application.

I appreciate the Commission's concern and I'm the attorney for the applicant, so I have to represent the applicants' concern and the applicant if it's time and its money to redesign a plan and present it to a Wetlands Commission, and especially if it's a revision to a plan, that's not going to have an impact on the wetlands. So hypothetically speaking, we go to planning and zoning, they deny the application. We may just be able to merge one lot into another lot without it having any impact on the wetlands, and therefore I don't think it be something that would implicate your jurisdiction. On the other hand, if we redesigned the plan in some other way and it proposed impacts on the wetlands, then I think we would be subject to your jurisdiction.

Bonnie Symansky, 50 W Pond Road which is adjacent to the paper road. That area used to be wooded and at the back of it there are a lot of coyotes, bobcats and a lot of wildlife. I agree with the fire access there couldn't be a road there but if you did it would need to cut through someone's property. Not a good solution. I agree that there should be a caveat put in there or rethinking it.

Attorney Lee agreed to grant an extension on the Public Hearing until the August 27, 2025 meeting.

Mr. Cole reiterated his plan- to reach out to DEEP and speak with Jenny Dixon and ask them specifically about the five-line skink and ask them if there are any other species we should be concerned about. I think the project sign unseen is probably most likely willing to adopt whatever best management practices DEEP recommends protecting those species. Because I think the application will meet all those performance standards in terms of the five-line skink. Just you know, not being argumentative. If you go to research it tonight when you go home. Look, there's four known populations that are all tied to the West side of the state to ledge out cropping's on the west side, they specifically are tied to elevations that just don't exist down on the coastal area. That being said, I think consultation with people acknowledge I think there's been at least heard through the Grapevine, there was a population identified in East Lyme. So, you know, is there an outlier? I don't know. But we'll reach out to them and get correspondence. But that, you know, and I'll document it that way.

## **5. OLD BUSINESS**

## **6. NEW BUSINESS**

## **7. WETLAND ENFORCEMENT OFFICER'S REPORT (STAFF)**

Town Planner Perkins provided an update regarding the property at 2315 Foxon Rd. He reported that they have not touched the wetlands whatsoever. They did their reconstruction a number of years ago. When I reviewed it last year before they started on this project and they are very sensitive about where the wetlands are. They have posts in the back marking the wetlands.

Member Brigano asked about the Linsley Lake property that was brought up by Member Galdenzi via email. Town Planner Perkins reported that they are developing that lot as single-family house. They did get a variance from the Z BA in order to be closer to the road because the lots only like 100 feet

deep, so they'd have to be 50 feet back from the road in order to build a house. So, they're going to be able to be 20 ft back from the road. They did cut some trees down. No stumps were removed. They're putting up a silt fence later this week to control any erosion there is. There are 12 trees on the lot that were cut. None of them were calipers, more than two feet, they were small trees. They will be coming back for a permit to build the house. Member Brigano asked, shouldn't they have come to us to get approval before cutting the trees down. Town Planner Perkins responded that he is not sure they should have to. They weren't in the wetlands; they were in the buffer. I don't believe they need approval to cut trees down in the buffer. No. If they're digging them up and they're stumping and they're filling and they're scraping and they're grubbing; that's a different story.

Town Planner Perkins asked if Member Brigano can point to a regulation that he can hang his hat on; it would be appreciated. Member Brigano recalls the reason they were cutting the trees down is because they were surveying, but you don't need to cut trees down to do surveying. Town Planner Perkins clarified that this was not a property survey, it was a topographical survey to determine the levels of the property, the altitude of the property. Member Brigano doesn't agree. That the property owner should have come before the Commission before cutting trees down. They should be paying the penalty rates for doing something without coming here to get approval.

Town Planner Perkins stated that as long as you're not stumping or filling or grubbing or changing the topography of the land, creating erosion factors that are going to affect the lake, then I don't believe you need to get approval from Wetlands before cutting trees down within the buffer.

Town Planner Perkins said there is also that the Inland Wetlands Enforcement agent can approve that in the buffer without coming back to the Commission.

Member Brigano stands firm that regardless of them getting approval for the variance from ZBA, they should have come to the Commission before taking those trees down.

Town Planner Perkins shared that there is an application pending in front of sitting council to create a solar farm on 121 West Pond Rd. It has frontage on Foxon Road and West Pond Rd. There are a bunch of wetlands in the area. They're going to have a road that's going to be really close to it. The solar unit itself is exempt from municipal wetlands regulations. The road that accesses it is not part of the solar facility. So, we will have jurisdiction over the road that gets them to the facility driveway.

Member Fischbach stated at the top of the hill here was like a 5 acre parcel and that was subdivided. The original farmhouses in the middle and four newer houses around it that weren't designated wetland either, but it is and all the problems that are coming from that wetland because it all drains under the road onto my property.

## 8. ADJOURNMENT

**Motion:** To adjourn at 8:07p.m.

**Moved:** Member Fischbach

**Second:** Member Whitworth

**With all in favor, the motion is passed.**

Respectfully submitted,

Respectfully submitted,

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Kathleen Daly  
Recording Secretary

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Steve Scavo  
Chairman