

September 10, 2008

Regular Meeting

7:00 p.m. Land Use Meeting Room

MEMBERS PRESENT: Mrs. D. Hill, Mr. LaMuniere, Mr. Picton, Mr. Thomson

MEMBER ABSENT: Mr. Bedini

ALTERNATES PRESENT: Mr. Bohan, Mr. Wadelton

STAFF PRESENT: Mr. Ajello, Mrs. J. Hill

ALSO PRESENT: Mr. Neff, Mr. Szymanski, Mr. Boling, Mr. Guerts, Mr. McCullers, Mr. Charles

Mr. Picton called the Meeting to order at 7:02 p.m. and seated Members Hill, LaMuniere, Picton, and Thomson and Alternate Wadelton for Mr. Bedini.

MOTION: To add the following subsequent business not already posted on the agenda:

Other Business:

Camp Windguage, LLC./24 Old North Road/Request to Revise Permit #IW-08-39

Slaymaker/17 Sunset Lane, and Tavino/26 and 32 Flirtation Avenue.

By Mr. Picton, seconded by Mr. LaMuniere, and passed 5-0.

Consideration of the Minutes

The 8/13/08 Public Hearing – Regular Meeting minutes were accepted as corrected.

P. 5: 3rd line: #5: Add: “Regarding” before “the proposed two...”

P. 5: 3rd line from end of 1st paragraph: Delete “the” before “of wetlands.”

P. 13: Slaymaker motion: #2: should state \$5000 bond, #3: change “inside” to “outside” the footprint....

P. 14: 5th line from end of paragraph: Change: “in tact” to “intact.”

MOTION: To accept the 8/13/08 Public Hearing/Regular Meeting minutes as corrected. By Mr. Picton, seconded by Mrs. D. Hill, and passed 5-0.

MOTION: To accept the Guerts/8/21/08 site inspection minutes as written. By Mr. LaMuniere, seconded by Mr. Thomson, and passed 5-0.

Pending Applications

Wykeham Rise, LLC./101 Wykeham Road/#IW-08-31/Site Development for Inn:

It was noted discussion had been tabled until the next session of the Public Hearing.

Mr. Picton asked if the outdated maps were included in the file because he wanted to compare the plans and understand the latest changes.

Mr. Ajello said they were.

Mr. Picton asked that questions and comments from the commissioners be submitted to Land Tech as soon as possible.

Walker/154 South Street/#IW-08-43/Install Swale:

It was noted that the purpose of the proposed swale was to divert driveway runoff before it reached a neighbor’s property. The application had been discussed at the last meeting and Mr. Picton stated that all of the issues had been addressed.

MOTION: To approve Application #IW-08-43 submitted by Mrs. Walker to install a swale at 154 South Street per the hand drawn map and description and to be conducted under the guidance of the Enforcement Officer. By Mr. LaMuniere, seconded by Mr. Picton, and passed 5-0.

Hochberg/15 Couch Road/#IW-08-41/Dredge Pond:

Mr. Szymanski presented the map, "Pond Dredging Plan," by Arthur H. Howland & Assoc., dated 6/30/08. It was noted the pond would be dredged without deepening or enlarging it and the underwater slopes would be 3:1 or less. Mr. Szymanski stated the excavated organics would be stockpiled on site and the coarse material would be trucked off site. He said the work would be done during the dry season, would be a week in duration, and would be completed by November 15th. Conditions of approval were discussed.

MOTION: To approve as submitted Application #IW-08-41 submitted by Mr. Hochberg to dredge the pond at 15 Couch Road subject to the following conditions:

1. the work is to be done during a period of low stream flow
2. the work shall be completed within one week of the start date with only one day of work in the basin; all work to be completed by 11/15/08
3. only clear water is to be pumped from the pond
4. the engineer, enforcement officer, and contractor shall meet on site prior to the commencement of work. By Mr. Picton, seconded by Mr. LaMunier, passed 5-0.

Marquis/104 Blackville Road/#IW-08-44ATF/Deck:

Mr. Picton noted that at the last meeting the Commission had determined that it would have approved the deck if it had been applied for prior to its construction. He also noted the property owner had had to pay a fine.

MOTION: To approve Application #IW-08-44ATF for a deck submitted by Ms. Marquis to correct the violation at 104 Blackville Road per the conclusionary review by the Commission. By Mr. LaMunier, seconded by Mr. Wadleton, and passed 5-0.

Pullaro/23/Calhoun Street/#IW-08-45/Repair Septic System:

Mr. Neff, engineer, presented the map, "Septic System Repair Plan," by Mr. Neff, dated 7/18/08. He pointed out the location of the existing septic system and noted the concrete galleries for the proposed system would be located as far from the brook and as close to the road as possible. He said a pumped system was proposed.

Mr. Ajello noted that the Commission had asked him to check whether the property owner had maintained the buffering that had been a condition of approval for a previous application and he reported this had been done.

Mr. Picton noted that this was the proper order of review for this application; first the Inland Wetlands Commission should review and approve septic repairs and then the Health Department.

MOTION: To approve Application #IW-08-45 submitted by Mr. and Mrs. Pullaro to repair the septic system at 23 Calhoun Street per the map, "Septic System Repair Plan," by Mr. Neff, dated 7/18/08. By Mrs. D. Hill, seconded by Mr. Thomson, and passed 5-0.

Guerts/46 June Road/#IW-08-46/Construct Dwelling, Workshop, Barn:

Mr. Szymanski, engineer, noted a site inspection had been conducted since the last meeting. The map, "Site Development Plan," by Arthur Howland & Assoc., revised to 9/9/08 was reviewed. Mr. Szymanski said he had located areas of exposed ledge and specimen trees on the map as had been requested by the Commission. He explained that the previous design had the driveway located "tighter into the hillside," but it had been moved to save one of the specimen trees. Other revisions were:

- 1) the addition of a 2 to 4 ft. high retaining wall to minimize the amount of clearing and regrading required
- 2) the addition of rechargers to accommodate a 100 year storm for the roof runoff for both the house and the barn
- 3) the addition of a 4 ft. high retaining wall along the back side of the barn to slow the runoff
- 4) the use of a conservation seed mix for quick revegetation and restabilization of the dry 3:1 slopes
- 5) the relocation of the workshop farther from the wetlands.

Mrs. D. Hill asked if there were intermittent streams in the area, and Mr. Szymanski pointed them out. Mr. Picton noted the nearest excavation to the watercourse was 30 feet away and would be unlikely to have an adverse impact because it would be slightly below the watercourse. He also noted that the closest the driveway would be to the watercourse was 40 feet and that the construction site appeared to be manageable. Mr. Picton asked that a natural buffer be maintained within 40 feet of the wetlands and watercourse and that the limit of disturbance and limit of clearing lines be added to the map.

Mr. Guerts agreed to maintain the natural buffer as requested. Mr. Szymanski explained that although the proposed workshop would be a temporary building, it had been designed for perpetuity.

Mr. LaMunier expressed his concern about the disturbance of the steep slopes.

Mr. Szymanski said the slopes would be immediately revegetated and Mr. Guerts stated that the root systems of the shrubs on the disturbed slopes should be OK.

It was the consensus that a bond was not necessary because it was unlikely the work would impact the wetlands. When Mr. Ajello heard that work would begin as soon as possible, he asked that the electrical conduits be installed first so that the disturbed area could be stabilized before winter. Mr. Szymanski agreed to do so.

MOTION: To approve Application #IW-08-46 as submitted by Mr. Guerts to construct a single family dwelling, workshop, and barn at 46 June Road subject to the following conditions:

1. that that area between the driveway and the watercourse be maintained in its natural forested
2. the limit of disturbance shall be staked on site so it is clearly visible
3. the conduits for the electrical service be installed first so that the disturbed area can be stabilized before winter. By Mr. LaMunier, seconded by Mr. Picton, and passed 5-0.

Other Business

McCullers/18 Plumb Hill Road/Request to Revise Permit #IW-07-21/ Change Temporary Driveway to Permanent:

Mr. Neff, engineer, proposed to deposit a layer of top soil over the driveway so that it would grass over and to install a rock seepage envelope to handle the natural flow that crosses the driveway area. He said this would allow for a more diverse flow under the driveway than a culvert would.

Mr. Picton noted the Commission had approved the driveway within 12 ft. of wetlands because it was temporary and would be taken out after construction was completed. He said there was another location at least 50 ft. from the wetlands that could have been used.

Mr. Thomson agreed and pointed out that the temporary driveway application had been after-the-fact.

Mr. McCullers said the driveway would be used only for oil delivery, septic tank pumping, emergency vehicles, and service vehicles.

Mr. Picton noted that once permitted, the Commission would have no control over how often it was used.

The map, "Soil Erosion and Sediment Control Plan," by Mr. Neff, dated 5/17/07 was reviewed.

Mr. McCullers pointed out why the driveway could not be located elsewhere to serve the existing buildings on site; mainly that the oil tank was located in the cellar of the barn and that a 200 ft. hose would be required to fill it from the temporary drive.

Mr. Picton asked Mr. McCullers to find an alternate location that was not so close to wetlands. A site inspection was scheduled for Tuesday, Sept. 16, 2008 at 5:00 p.m.

Mr. Thomson asked Mr. McCullers to put all of the existing facilities and structures, such as the barn, on the map because the full layout was needed for the Commission to make a complete review.

Camp Windguage, LLC/24 Old North Road/Request to Revise Permit #IW-08-39/Driveway Location:

Mr. Boling and Mr. Charles, agents, were present. The map, "Plan of Development," by Arthur Howland & Assoc., revised to 9/9/08 was reviewed. They presented the plan for a possible lot line revision with a neighbor that would allow access to the proposed interior lot from an existing right of

way, would eliminate the need to run the driveway through the field, and would stay 110 feet from the wetlands.

Mr. Charles noted the proposed additional segment of driveway would be outside the regulated area. He pointed out the gentle grade in the area and the location of the proposed erosion and sedimentation controls. He also noted that the existing stone walls would be maintained.

Mr. Picton noted there were no wetlands issues and the new segment would minimize travel across the slope upslope of the wetlands.

MOTION: To approve the request by Camp Windguage, LLC. to revise Permit #IW-08-39 to change the proposed driveway location at 24 Old North Road per the map, "Plan of Development," by Arthur H. Howland & Assoc., revised to 9/9/08. By Mr. Picton, seconded by Mr. Wadelton, and passed 5-0.

Slaymaker/17 Sunset Lane/#IW-08-38/Reconstruct Dwelling:

Mrs. D. Hill asked that the amount of the bond, \$5000, be included in the motion. It was also noted that the third condition of approval was incorrect. The correct wording was that there should be no filling or drainage outside the footprint of the existing house, and that all excess material shall be taken off site. The applicant will be notified of the corrected motion.

Tavino/26 and 32 Flirtation Avenue/#IW-06-54:

Mrs. Hill asked if Mr. Tavino, the new property owner, had requested the permit be transferred to his name, and if so, she asked if a second fee had been collected. She noted he should have applied for the transfer of the permit before he submitted his request to revise it.

Mr. Picton thought the two could be considered as one in this case as the Commission had already acted on the request.

Mrs. Hill asked that more attention be paid to permit transfers in the future. She then asked if Mr. Ajello had checked on the adjacent property owner's concerns about runoff as the Commission had requested.

Mr. Ajello said he had talked to him after the most recent storm and had learned that the erosion controls had held up well.

Enforcement Report

Lodsins/78 Litchfield Turnpike/Unauthorized Excavation/#IW-07-V12:

Mr. Ajello said that Mr. Lodsins had not responded to the last letter that was sent to him. The Commission asked him to refer this matter to the Army Corps of Engineers.

Moore/25 Litchfield Turnpike/Unauthorized Filling, Clearcutting:

It was the consensus that this restoration must be properly completed.

Mr. Ajello said he would check to be certain all disturbed areas had revegetated.

Mr. Picton noted that Mr. Moore still owes \$750 for the third citation issued.

Mr. Ajello thought it was \$500 and will look into it.

Reinhardt and Cremona/Perkins Road/Execution of Approved Restoration Plan:

Mr. Ajello reported that Mr. Childs had planted more trees, but more remained to be planted. He said he requested that the planting be completed by the end of the year so that the unused portion of the bond could be returned.

Mr. LaMunier recommended that the Commission schedule a site inspection once the leaves are off the trees.

Rosen/304 Nettleton Hollow Road/Unauthorized Stream Work/#IW-08-V2

Mr. Rosen disturbed 600 feet of the watercourse, which flows through his property. Mr. Ajello circulated photos of the work that had been done without a permit.

Mrs. J. Hill noted she had been by the property late this afternoon and workers were still working in the streambed.

Mr. Thomson said in addition to working in the stream over the entire length of the property, the area specified to remain as a wet meadow had been disturbed. It had been converted to lawn.

Mr. LaMuniere asked if a notice of violation had been placed on the Land Records.

Mr. Ajello said he had issued a notice of violation, but had not filed it on the Land Records. Mr. Ajello said that over 5,000 sq. feet had been disturbed, so suggested that the Army Corps of Engineers be contacted.

Mr. Picton asked that an enforcement order be issued as soon as possible.

Mr. Ajello said the order would include requests to stop all work, to file an application to correct the violation, and to post a \$10,000 bond to cover the cost of the Commission's consultant, monitoring, and enforcement.

Mr. LaMuniere asked that the order also state that due to the severity of the violation and the destruction of the natural streambed, the violation will be forwarded to the Army Corps of Engineers.

Mrs. D. Hill thought that because the wetlands boundaries were known due to a previous application by Mr. Rosen, a cease and desist order should have been issued immediately and the Show Cause Hearing should have been conducted this evening.

Mr. Picton stated that an immediate cooperative response was needed from Mr. Rosen and corrective measures had to be made as soon as possible. He asked Mr. Ajello to contact the Army Corps, but said the Commission would continue with enforcement proceedings until it was known whether the Army Corps would take over. Mr. Picton said that the work on site should have been stopped within an hour after the violation was reported and that if it had continued, the police should have been called.

Mr. Thomson agreed with Mrs. D. Hill that a cease and desist order should have been issued already and asked that it be filed on the Land Records as soon as it is issued.

Mr. Picton asked that in the future for violations of this magnitude that the WEO order all work to stop immediately and then proceed to issue the strongest enforcement measures possible.

Mr. Ajello said he had consulted with Mr. Bedini about the appropriate action to take in this case.

Mr. Thomson also reported that there was a dam in Sprain Brook at the base of the property and said he had reviewed the map and there clearly had been no dam there previously.

A Show Cause hearing was scheduled for Thursday, 9/18/08 at 5:00 p.m. in the Main Hall, Bryan Memorial Town Hall.

Rubler/240 Wykeham Road/Unauthorized Clearing/#IW-08-V1:

Mr. Ajello said a soils report had been submitted and that a map would be ready for the next meeting.

Administrative Business

Revision of the Regulations: This work is pending.

Hiring of Consultant:

Mr. Picton noted the Board of Selectmen were interviewing three candidates and hoped he and Mr. Bedini would be notified so they could attend the interviews. It was generally hoped that a candidate with experience in Planning and land use would be selected.

Public Hearing Procedures:

Mr. Thomson thought the Commission could have benefited from having a Land Tech professional attend the Wykeham Rise, LLC. hearing and expressed his concern that new information could not be received after the close of the hearing. He said that as a lay person he could not judge which engineer's statements should be believed and wanted to be sure the Commission's engineer would address all issues of conflict. He asked that Land Tech's review include identification of all conflicts and a recommendation for the resolution of each.

Mr. Picton thought this was a good idea and also asked Mr. Ajello to contact Land Tech to ask that one of its professionals attend the next session of the hearing.

Mr. LaMuniere pointed out that once all of the information is received, the commissioners must study the file and make up their own minds about whether the application complies with the Regulations. Mr. Thomson noted that Ms. Chase had not responded to Dr. Klemens review as she had been asked. Mr. Picton noted that if she did not respond, during its deliberations the Commission could determine there was insufficient information upon which to act. Mr. Picton asked if Land Tech had been given the instruction to address all environmental as well as engineering concerns.

Mr. Ajello said it had not.

Mr. Thomson noted it had been clear at the 8/13/08 hearing that Land Tech was to do both.

Mr. Picton said he would write to Land Tech to ask for a thorough review of all points and aspects raised.

Mr. Thomson again noted that all information should be submitted by 9/25 and said he was disappointed that Land Tech had not yet submitted a report on the application to date.

MOTION: To enter Executive Session to discuss pending litigation. By Mr. Picton, seconded by Mrs. Hill, and passed 5-0.

Executive Session commenced at 9:13 p.m.

MOTION: To exit Executive Session. By Mr. Picton, seconded by Mrs. Hill, and passed 5-0.

Executive Session ended at 9:30 p.m.

MOTION: To adjourn the meeting. By Mrs. Hill.

Mr. Picton adjourned the Meeting at 9:31 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted

Janet M. Hill, Land Use Coordinator