

September 24, 2008

Regular Meeting

7:00 p.m. Land Use Meeting Room

MEMBERS PRESENT: Mr. Bedini, Mrs. Hill, Mr. Picton, Mr. Thomson

MEMBER ABSENT: Mr. LaMuniere

ALTERNATES PRESENT: Mr. Bohan, Mr. Wadelton

STAFF PRESENT: Mr. Ajello, Mrs. Hill

ALSO PRESENT: Atty. Fisher, Mr. Cegal, Ms. Melahn, Mr. Owen, Mr. Wilson, Mr. Neff, Atty. Kelly

Mr. Picton called the Meeting to order at 7:00 p.m. and seated Members Bedini, Picton, and Thomson and Alternates Bohan and Wadelton for Members Hill and LaMuniere.

Consideration of the Minutes

Mrs. D. Hill arrived and was seated.

MOTION: To accept the 9/9/08 Public Hearing Meeting minutes as written. By Mr. Bedini, seconded by Mr. Thomson, and passed 5-0.

The 9/10/08 Regular Meeting minutes were accepted as corrected.

Page 3: 2nd line from top: Add: "...seemed likely" that it would have been approved.

Page 4: Under McCullers: 2nd line from bottom: Change: "diverse" to "dispersed."

Page 6: First line: Insert: "new or" before "existing house" and "except what is shown on the plan" after "existing house."

Page 8: Last line under Public Hearing Procedures: Insert: "new" before "report."

MOTION: To accept the 9/10/08 Regular Meeting minutes as corrected. By Mr. Bedini, seconded by Mr. Thomson, and passed 5-0.

MOTION: To accept the 9/16/08 McCullers site inspection minutes as written. By Mrs. Hill, seconded by Mr. Picton, and passed 5-0.

MOTION: To add the following subsequent business to the agenda:

Consideration of the Minutes: D. Show Cause Hearing/9/18/08,

New Applications:

B. Brown/127 West Shore Road/#IW-08-48/ Reinstallation of Driveway,

C. Reger/65 Gunn Hill Road/#IW-08-49/2 Lot Resubdivision.

By Mr. Picton, seconded by Mr. Bedini, passed 5-0

MOTION: To accept the 9/18/08 Show Cause Hearing minutes as written. By Mr. Bedini, seconded by Mr. Picton, and passed 5-0.

Pending Application

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

It was noted that although the Commission had asked the applicant to submit all responses and new information by 9/25, so there would be time to review it and comment before the continued hearing on 10/9, nothing new had been received to date.

New Applications

Melahn/67 River Road/#IW-08-47/Construct Front Dormer, Rear Roof Overhang, Shed:

Mrs. D. Hill recused herself because she is a neighbor and Mr. Bohan was seated.

The map, "Property Survey," by Mr. Osborne, dated 8/25/06 and a portion of that map with the location of the proposed activities drawn in by hand were reviewed.

Mr. Ajello stated that the proposed work would –not cause soil disturbance The 10' X 12' storage shed would be 43 feet from the watercourse, would be brought in from the adjoining property so there would be no need to cross the watercourse, and there would be no clearing required. The addition of the rear overhang would not bring the footprint of the existing house closer to any wetlands or to the watercourse and the construction on the house would not require any ground work within the regulated area. It was the consensus there was no need for a site inspection and that based on Mr. Ajello's review, the Commission could act at the next meeting.

Mrs. Hill was reseated.

Brown/127 West Shore Road/#IW-08-47/Reinstallation of Driveway:

The application check list form was circulated and Mrs. J. Hill noted the required conservation easement form had not been submitted as required for every land use application. The map, "Site Plan, Driveway & Utility Improvements," by Mr. Wilson, dated 9/15/08 was reviewed.

Mr. Wilson, engineer, stated the driveway would be narrowed to 11 ft., a snow melting system would be installed for both the driveway and parking area, and power would be installed. He noted this would not increase the lot coverage and that the state had granted permission for boring under the road to bring in the utility lines. He pointed out the upland review area and the row of silt fencing along the 100 ft. setback line.

Mr. Picton asked if any activities were proposed outside the driveway route, if the stockpiles could be moved farther from the lake, and if the drainage would be concentrated.

Mr. Wilson said the utility trench was the only activity proposed outside the driveway and the drainage would not be concentrated. He said the driveway would be crowned and paved with a trench drain running across the bottom. He said the snow would melt as it hit the driveway, so the runoff would be gradual.

Mr. Picton asked if the utility line would be brought down to the dock. Mr. Wilson said he did not know.

Mr. Picton noted the site could be seen by driving by the property and a site inspection was not necessary.

Reger/65 Gunn Hill Road/#IW-08-49/2 Lot Resubdivision:

Mrs. Hill recused herself because she is related to the property owner. Mr. Bohan was seated.

Mr. Picton noted that a conservation easement form had not been submitted. The map, "Holly Reger, Resubdivision, 65 Gunn Hill Road," by Oakwood Environmental Associates, revised to 9/16/08 was briefly reviewed.

Mr. Ajello will make sure the application is complete and check for wetlands on adjoining properties before the next meeting.

Mrs. Hill was reseated.

Other Business

McCullers/18 Plumb Hill Road/Request to Revise Permit #IW-07-21/ Keep Temporary Driveway:
Atty. Fisher and Mr. Neff, engineer, represented the property owner.

Mr. Neff reviewed his plans, "Soil Erosion and Sediment Control Plan," revised to 9/23/08 to which he added the existing garage, studio, and driveway as the Commission had requested at the last meeting. He said the proposed plans for the driveway and seepage envelope had not changed. The 8" PVC pipe would be taken out and a modified rip rap pad with filter fabric would be installed to allow a more natural flow.

Mr. Picton briefly reviewed the history of the application; there had been unauthorized excavation and a temporary driveway had been approved after-the-fact with the condition that it was to be taken out and the area restored. He said at the time of the application an alternate driveway route not so close to the wetlands at the south end of the leaching fields had been noted. This alternate had been observed during the Commission's recent site inspection.

Atty. Fisher said that although this was a shorter, more direct route, it would require cutting down more trees. Atty. Fisher explained a service access was needed for the studio because the hose on the fuel truck was not long enough to reach the tank. Mr. Picton noted the tank had been installed in the farthest end of the studio and said plans for the driveway shouldn't have been left until the end of the planning process.

Mr. Picton and Mr. Bedini discussed other routes that would involve cutting trees.

Atty. Fisher said Mr. McCullers wanted to do the right thing and offered to have another site inspection to look at alternate routes. There was a discussion regarding whether spreading a thin layer of top soil over the existing temporary driveway and then planting grass would be an adequate surface. Several of the commissioners thought this would not work when wet or during January thaw weather. The alternate route at the south end of the septic fields was considered. It was noted this would require a 2 to 3 ft. cut into the bank for 10 to 20 ft.

Mr. Bedini thought this route should be hardened, not dressed with top soil, to make it more useable throughout the year.

Mr. Picton thought this auxiliary access could also provide additional parking for the house on the terraced area above the wetlands.

Atty. Fisher did not think that Mr. Neff's current proposal would harm the wetlands.

Mr. Picton said he did not know that it wouldn't and pointed out that the current driveway was over a watercourse. He thought the route at the south end of the septic fields would not slope down to the western wetlands.

Atty. Fisher said he would discuss the alternate route with the property owner before the next meeting and Mr. Neff said he would look into how many trees would have to be cut.

Draft Conservation Easement Template:

The draft document had been circulated for the commissioners to review prior to the meeting. Mr. Picton said that he had commented to Mr. Boling, but that none of his comments related to wetlands issues. He noted that septic systems and driveways were not prohibited within conservation easements and he thought this could be problematic. He asked the commissioners to submit any comments they have to Mrs. J. Hill or to Mr. Boling.

Referral from Kent/Hoyenski/33 Camp Road, Kent/Application for House, Septic, and Driveway:

Mr. Ajello reported that this application was insignificant, not near the Town boundary, and was no threat to wetlands.

Enforcement

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

Atty. Kelly represented Mr. Rubler. The map, "Site Analysis Plan," by Mr. Alex, revised to 9/10/08 was reviewed. Mr. Ajello pointed out the location of wetlands, the steepest slopes, and the approximate location of the trees that were cut on the south side of Wykeham Road. It was noted that one of the wetlands shown is classified as a vernal pool in the Natural Resource Inventory.

Mr. Ajello said the cutting was within 60 ft. of the wetlands.

Atty. Kelly said this measurement was not accurate because it had not been done by a surveyor. He provided the following information. The surveyor had determined that nine trees had been cut in two clusters. The first group was 150 – 185 ft. from the 2500 sq. ft. vernal pool and 150 – 200 ft. from the 200 sq. ft. wetland pocket. The second group of trees was not directly up hill of either the vernal pool or the wetland pocket. These trees were at least 200 ft. from the vernal pool, and were 380 ft. and 340 ft. from the wetland pocket and Sprain Brook respectively. He submitted a "call out" section of the map with the stumps located by the surveyor.

The Commission asked that this information and the 2 ft. contours be added to the "Site Analysis Plan" for future reference. It was noted that trees had been cleared on both sides of the road on steep slopes that feed down to the wetlands and eventually to Sprain Brook.

Mr. Picton said the Commission had no additional concerns about the property above the road if there was no more clearing, destabilization, or rerouting of stormwater there.

Mr. Ajello noted that each road culvert has an intermittent stream below it defined by definite channels and evidence of scouring, but Atty. Kelly said that Mr. McNamara, soil scientist, had determined they were not intermittent streams.

Mr. Picton said that in either case, if there were destabilizing activities proposed on the slopes it could be a Wetlands Commission concern.

Mr. Ajello said the activity was not limited to tree cutting as the trees fell towards the wetlands and vernal pool and would be difficult to remove due to the steep slopes.

After a brief discussion it was the consensus that the trees should be left where they fell.

Atty. Kelly asked the Commission to delineate the regulated area so that his client will know in the future when he must apply for permits.

Mr. Picton stated that 20% slopes are predominant below Wykeham Road and so the Commission wanted oversight over cutting and ground disturbance in this area.

Mr. Bedini pointed out that the property to the north of the road is also very steep and previous clearing and disturbances had caused sediment to wash down. He noted this area should not be altered in ways that would affect the downhill slopes.

Mr. Picton agreed because the runoff from the slopes flows through the cross culverts and then towards Sprain Brook.

Mr. Ajello recommended that a soil scientist look at the soil filling the culverts to determine whether it is road sand or soil from a disturbance above.

Mr. Picton stated that due to the steep slopes, the Commission also has jurisdiction 100 ft. from the road on the uphill side of Wykeham Road even if this area is farther than 100 ft. from wetlands.

Regarding Mr. Rubler's 2007 permit, Atty. Kelly asked if the file had been closed and the bond returned.

Mr. Ajello noted that Mr. Rubler had already been notified in writing about what he was required to do so that his bond could be released.

MOTION: To go into Executive Session at 8:20 p.m. to discuss pending litigation and to invite Atty. Fisher to join the discussion. By Mr. Picton, seconded by Mr. Thomson, and passed 5-0.

MOTION: To end Executive Session. By Mr. Picton, seconded by Mr. Bedini, and passed 5-0.

Wykeham Rise, LLC/101 Wykeham Road/#IW-08-31/Inn:

Mr. Ajello reported that work on the side of Wykeham Road opposite Kirby Brook was proposed to improve sight lines. He said that this normal Town roadside maintenance could be done without oversight.

Mr. Picton noted that even though the proposed work is off the property, it would be part of the public hearing record.

Hiring of Consultant:

It was noted that Marty Connor had been hired and that he would begin work soon to review the organization of the land use offices.

Revision of the Regulations:

Copies of the draft regulations will soon be available for everyone to review. Copies will be sent to Atty. Zizka and to the DEP. A public hearing was scheduled for the second meeting in November at 6:00 p.m.

MOTION: To adjourn the Meeting. By Mr. Thomson.

Mr. Picton adjourned the Meeting at 8:48 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill, Land Use Coordinator