

April 25, 2007

MEMBERS PRESENT: Mr. Bedini, Mrs. D. Hill, Mr. LaMuniere, Mr. Picton, Ms. Purnell

ALTERNATE PRESENT: Mr. Thomson

ALTERNATES ABSENT: Ms. Coe, Mr. Potter

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

ALSO PRESENT: Mr. Szymanski, Mr./Mrs. Parsell, Mr. Neff, Mr. DiBenedetto, Atty. Fisher, Ms. Zinick, Mrs. Tompkins, Mr. Talbot, Mr. Gambino, Mr. Baker, Mr. Charles, Mrs. Branson, Mr. Gifford

REGULAR MEETING

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

MOTION: To include the following subsequent business on the Agenda: 1. New Applications: A. Steep Rock Assn./147 Sabbaday Lane/#IW-07-16/ Replace Culvert, B. Anderson/15 River Road/ #IW-07-17/Reconstruct House, C. Malamed/115 River Road/#IW-07-18/Inground Pool, 2. Enforcement: A. Andersson/35-45 Gunn Hill Road/Unauthorized Trenching in Wetlands, 3. Other Business: A. Myfield, LLC./7 Mygatt Road/Request to Amend Permit #IW-05-54/ Overflow Pipe. By Ms. Purnell, seconded by Mr. Picton, and passed 5-0.

SHOW CAUSE HEARING

DiBenedetto/212-214 Calhoun Street/Unauthorized Clearing

Mr. Picton opened the show cause hearing at 7:03 p.m. and seated Members Bedini, Hill, LaMuniere, Picton, and Purnell. Mr. Picton summarized the 4/18/07 enforcement order for unauthorized clear cutting and use of equipment in a watercourse.

Mr. DiBenedetto apologized for his demeanor at the last meeting, but said the enforcement order was punitive in nature and he had been standing up for what he believes is right. He admitted he had done work on his property, but said the massive destruction due to invasive plants had made it necessary. He submitted 600 photos, which he said would document his assertions. He said he wanted to spend his money on revegetation rather than on the maps and consultants requested by the Commission.

It was noted the photos were not marked as to where on the property they had been taken or what direction they were looking towards. Ms. Purnell asked him to number them, place the number of each on the site plan in the location where it was taken, and use an arrow to show the direction he was facing when taken. Mr. DiBenedetto agreed to do so.

Mr. DiBenedetto did not dispute that activities had taken place, but he argued that he had not used heavy equipment, had not cut down all the dead trees, and had replanted more than the Commission had required. He claimed other states would have told him to take out the invasives and said he had called the state DEP, who will assist him with his next application. He said he was prepared to move forward with both an application and litigation.

While it was generally agreed it was good to remove invasive species, Ms. Purnell pointed out that had he applied, he might not have received a blanket approval and it would have been pointed out that there are better ways to accomplish their removal. She noted the previously approved pilot program was a "dismal failure" because the forest functions had not been replicated. For the record, she briefly noted what had occurred to date: Mr. DiBenedetto had applied for and had received approval for a pilot program to remove the invasives in one section of his property. The work had been done, the

Commission had reviewed it, and had found it had not been completed as had been expected it in terms of what had been permitted to grow back. She said Mr. DiBenedetto had not yet demonstrated that the lost functions had been restored in this area. Later, when he applied to remove invasives from a second area, the Commission denied the application because there still had been no satisfactory results in the pilot section. Mr. DiBenedetto then did the work without the required permit.

Mr. DiBenedetto said that the natural understory had not been growing in the areas he had cleared and that the health of the wetlands had been the issue.

Mr. Picton asked whether it had been established that Mr. DiBenedetto had conducted regulated activities without the required permit. All agreed he had. He then suggested the Commission hire a consultant to report on 1) the state of the land where the unauthorized activity had occurred, 2) whether the work done in the pilot area had been done in conformance with the permit issued, and 3) what recommendations he would make regarding the restoration of the areas. He suggested the Commission put off the order to have the wetlands reflagged and the area revegetated until the consultant's report was received. Mr. DiBenedetto thought that was fair.

MOTION: To close the Show Cause Hearing to consider the 4/18/07 enforcement order issued to Mr. DiBenedetto for unauthorized clearing at 212-214 Calhoun Street. By Mrs. Hill, seconded by Ms. Purnell, and passed

5-0.

Mr. Picton closed the show cause hearing at 7:21 p.m.

This hearing was recorded on tape. The tape is on file in the Land Use Office, Bryan Memorial Town Hall, Washington Depot, Ct.

REGULAR MEETING

Consideration of the Minutes

The 4/11/07 Regular Mtg. minutes were accepted as corrected.

P.5: 8th line: Change below ground to below stream level.

P.5: 17th line: Change bank above to bank between the stream and the driveway.

P.5: 27th line: After "watercourses" insert: , alternatives to the east driveway cut be explored, and the area....

P.5: 11th line from the bottom: After "area" insert: in the northeast corner of the property.

P.7: 15th line, under #5: After "used" insert: at the Van Alstyne building site....

P.8: 8th line from bottom: Change the sentence beginning in this line to: Ms. Purnell was concerned that the sheetflow off the road would be affected.

P.10: 12th line under DiBenedetto: Change: "sodded" to sowed.

P.12: 9th line" After "opening" insert: crossing the lower end of the driveway and asked him to make sure it was sized and functioning....

MOTION: To accept the 4/11/07 Regular Meeting minutes as corrected. By Mr. Bedini, seconded by Ms. Purnell, and passed 5-0.

The 4/18/07 Lewinter site inspection minutes were accepted as corrected. Ms. Purnell noted it was the proposed location, not the current location, that had not been staked in the field.

MOTION: To accept the 4/18/07 Lewinter site inspection minutes as corrected. By Mr. Bedini,

seconded by Mrs. Hill, and passed 5-0.

The 4/18/07 Parsell site inspection minutes were accepted as corrected. Three lines from the bottom, insert no before indication.

MOTION: To accept the 4/18/07 Parsell site inspection minutes as corrected. By Mr. Bedini, seconded by Mr. Picton, and passed 5-0.

Pending Applications

Tompkins/37 Tompkins Hill Road/#IW-07-05/Construct Driveway: Ms. Purnell recused herself and Mr. Thomson was seated. Mrs. Tompkins submitted the map, "Site Analysis Plan," by Mr. Alex, revised to 8/5/03 on which she had drawn the driveway in pencil and proposed stabilization measures and a specifications sheet which described the proposed features on the map. She pointed out on the map where the potential runoff problems were. Mr. Picton briefly reviewed the spec sheet. Mrs. Tompkins explained the entire driveway would be top dressed and compacted. The material that had been deposited to bring the driveway into compliance with the 15% grade requirement was presently planted with grass, which had held during the recent storms, but she proposed to plant it with native wildflowers. She reviewed the drainage system. Mr. Picton noted the plans would result in the dissipation of the runoff before it accumulated. He asked if the driveway was crowned. Mrs. Tompkins stated it was somewhat crowned and banked to the inside. Mr. Ajello said the application was complete and he recommended the work be completed by July 1, 2007. He added this requirement to the spec sheet.

MOTION: To approve Application #IW-07-05 submitted by Mr. and Mrs. Tompkins to construct a driveway at 37 Tompkins Hill Road as presented. By Mrs. Hill, seconded by Mr. Picton, and passed 5-0.

Ms. Purnell was reseated.

Abella/44 Scofield Hill Road/#IW-07-06/3 Lot Subdivision: Mr. Szymanski, engineer, was present. It was noted a public hearing had been scheduled for May 9th. Mr. Szymanski submitted a draft map, "Overall Site Development Plan," revised to 4/18/07 and noted that based on the new driveway location that had been recommended at the site inspection, the maximum driveway grade had been decreased from 15% to 12.8%, cuts and fills had been reduced, and the driveway profiles had been revised. He said the new route was farther from the wetlands and with the decrease in the cuts and fills there would be minimal erosion and sedimentation potential. Mr. Picton noted the Commission had also discussed the configuration of the conservation easement area and had recommended it include more than just the wetlands, which were already protected. The application has been referred to the Conservation Commission for comment. Mr. Picton also noted the bridge details had not yet been submitted.

Hochberg/15 Couch Road/#IW-07-09/Driveway: Mr. Szymanski, engineer, and Mr. Hochberg were present. The map, "Proposed Driveway Plan," by Mr. Szymanski, revised to 4/20/07 was reviewed. Mr. Szymanski referred to his 4/23/07 written analysis of feasible and prudent alternatives and noted even though the alternative driveway route from Rabbit Hill Road to the 20 acres of useable uplands had been laid out along the contour lines, it would require average cuts of 10 to 15 feet and maximum cuts of 20 to 25 feet. Mr. Picton noted a boundary line revision would be proposed and said the application would be easier to evaluate if the proposed new line was indicated on the plan. Ms. Purnell noted there was a valid building area along Rt. 202 and said if there was a feasible and prudent alternative the Commission was required to take it. Mr. Szymanski responded that the owner needed to access his 20 acres of upland area that the statutes allow him to use. Ms. Purnell said she did not agree that everyone gets to use his land to the maximum extent allowed by Zoning, especially if doing so would necessitate numerous wetlands crossings. Mr. Picton noted if the lots were not to be reconfigured, access to the 20

acres could be through the yard along the stone wall, but the reason for the proposed access was that the owner wanted an additional lot. He asked for information about the planned building site. Ms. Purnell noted the proposed house site would be in an area where numerous seeps and springs had been identified, whereas the building site along Rt. 202 did not have any wetlands. She noted the entire property is at the headwaters of Bee Brook and so it was important to guard against cumulative degradation of the wetlands. She said the proposed driveway would not be to "nowhere" so the potential development impacts should be considered. Mr. Szymanski said the proposed driveway was 800 ft. long with an 1800 sq. ft. wetlands crossing, and only 4 ft. cuts required, while the alternative was 1700 feet long, 1100 ft. of that with 15% grades, and requiring 20 to 25 ft. cuts. Mr. Szymanski noted he had decreased the amount of fill over the proposed pipe and noted it was not a pristine wetlands that would be crossed; it was mowed three to four times a year. He noted, too, he would add a seepage envelope to the plan. Ms. Purnell suggested that since the commissioners had not had an opportunity to review the newly submitted material that they do so before the next meeting. The WEO was asked to review the application to make sure it is complete and can be voted on at the next meeting.

Adams/233 West Shore Road/#IW-07-10/Renovations, Driveway Reconfiguration, Inground Pool, Etc: Ms. Zinick, agent, and Mr. Neff, engineer, were present. Ms. Zinick submitted plans revised to 4/24/07 and said the future tennis court had been deleted as requested by the Commission. Mr. Neff noted, too, that the driveway to the carriage house had been moved 25 feet from the watercourse with a retaining wall between the driveway and the main building. This resulted in a slightly smaller parking area. Also, the proposed patio was pulled back from the western watercourse to allow for a 10 ft. vegetated buffer. He noted both of these changes resulted in a more compact proposal. He said Mr. Temple had reevaluated the soils and he submitted his report, dated 4/25/07, which stated a second site inspection confirmed there were no wetlands soils on the property. Mr. Neff noted the naturally low area where the runoff ponds allows some of the sediment to settle out before it reaches the lake. Ms. Purnell asked how the above revisions affected the amount of impervious surface on the property. Mr. Neff said there would be a net reduction. Ms. Purnell asked for the exact figures because the property was over the maximum coverage allowed; 10% coverage being the threshold at which there begins to be impacts to water quality and the perpetual potential for the degradation of the lake. Ms. Zinick said the proposed coverage had decreased from 22% to 20.2%. Mr. Neff submitted the "Proposed Sequence of Construction" dated 4/23/07, which included phasing so that there would be smaller work areas that would be stabilized before moving on to the next phase. He described each phase. Mr. Picton noted there was a rip rapped swale proposed along the new driveway. Mr. Neff said the swale would be armored for stabilization and would empty into the catch basin. Mr. Picton asked if the rip rap would be placed in the swale at the beginning of that phase of the work. Mr. Neff said it would. Mr. Neff pointed out the areas of fill for the proposed driveway, which, he noted had a 13% grade. Mr. Picton asked if the rip rapped swale would be installed before the fill was deposited. Mr. Neff responded the fill would be put in first, but it would be compacted in 6 inch lifts to control erosion. Ms. Purnell noted there was a lot of activity proposed for such a constrained area and said she wanted to study the plans before the next meeting. She recommended the ponding area in the northeast corner of the property be planted as a landscaped buffer for mitigation. She said this would help to filter the runoff before it reached the lake so it would have less impact. Mr. Neff said he would discuss this with the property owner. Mr. Picton thought the revised plans were an improvement, but noted there was no cross section of the driveway and the height of the retaining wall had not been specified. Mr. Neff said the wall sloped from 0 to 7 feet tall and he would provide the driveway cross section. Mr. Picton asked if the limit of disturbance line could be pulled back so it would not be within 2 to 3 ft. of the western stream. Mr. Neff said he would pull it back closer to the patio. It was noted if this were not such a constrained property, the Commission would lobby for at least 15 to 20 ft. between the streams and the limit of

disturbance lines. On the other side of the property, Mr. Picton noted there was no vegetation proposed between the work area and eastern stream. Mr. Neff stated there were large trees and boulders existing in this area. Mr. Picton asked that the specs be added to the plans regarding how the buffers would be maintained as heavily vegetated stream buffers. Mr. Picton asked if the applicant could have a pile of crushed stone on site during construction to harden runoff paths if necessary to deal with temporary erosion problems. Mr. Neff said he would add a note to the plans. Ms. Purnell asked that this stone be removed post construction. Mr. LaMuniere asked where the pool equipment would be located. Mr. Neff said it would be in the basement of the main building. Mr. Picton reminded Mr. Neff to include notes on the map regarding the driveway surface and all other relevant information discussed. He asked if a bond was necessary. Ms. Purnell thought it would be appropriate due to the scope and scale of the project and its proximity to the lake. It was the consensus that \$5000 would be sufficient. Mr. LaMuniere noted the applicant had to come back to the Commission to apply for decking on the boathouse and the cutting of trees along the lake, although he thought they were healthy and should not be cut. Ms. Purnell agreed, noting the Commission encourages native vegetated buffers. Mr. Picton asked if the Commission was prepared to act on the carriage house work if there was no change in its shape, no earthwork, and the footprint did not change. Ms. Purnell asked where stockpiled materials would be placed. Mr. Neff said the existing paved driveway would be used. Ms. Zinick asked that any motion of approval for the carriage house also include permission to clean out the catch basins.

MOTION: To approve in part Application #IW-07-10 submitted by Mr. Adams for renovations, driveway reconfiguration, and inground pool at 233 West Shore Road to allow: 1. cleaning out the sumps of the bottom five catch basins in the vicinity of the main building provided that if a situation is encountered where siltation occurs, the process is discontinued and the cleaning plans modified, 2. construction on the carriage house as long as there is no change in the footprint, ground size, or shape of the building, 3. removal of the large partially rotted maple tree located close to the Getnick boundary line. By Mr. Picton, seconded by Mr. Charles, and passed 3-2. Mrs. Hill and Ms. Purnell voted No because they did not approve of the partial approval of applications.

Ms. Zinick submitted a letter dated 4/25/07 requesting a 65 day extension for consideration of the application.

John Dorr Nature Lab/220 Nettleton Hollow Road/#IW-07-11/Demolish and Reconstruct Building, Additions to Dorm, Demolish Accessory Buildings: Mr. Szymanski, engineer, and Mr. Talbot, architect, were present. The map, "Proposed Site Development Plan," by Mr. Szymanski, revised to 4/11/07 was reviewed. Mr. Szymanski noted that at the last meeting he had submitted a detailed construction sequence, which included phasing. Since then he added a provision that the cabins would be removed and the disturbed areas stabilized one by one to respond to the concerns raised by the Commission. Mr. Picton stated the strategy of the plan met the objective of protecting the wetlands in that the disturbed areas would be kept to a minimum at any one time and the new, enlarged building would be moved further from the stream than the existing lodge. It was the consensus that no public hearing was required and no additional information was needed. Bonding was discussed. Even though the lodge building would be 450 ft. from the watercourse and on level land, it was the majority opinion that a \$5000 bond would be required so that the erosion and sedimentation controls could be replaced and remediation done in a worst case scenario. It was noted O and G would supervise the job daily, Mr. Talbot would be on site several times a week, and Mr. Szymanski would report on the installation of the erosion control measures.

MOTION: To approve Application #IW-07-11 submitted by the John Dorr Nature Lab at 220 Nettleton Hollow Road per the plans dated 2/23/07 and amended to 4/11/07 with the following stipulations: 1. the engineer shall report to the Commission prior to the commencement of construction for each phase on the proper installation of all the required erosion and sedimentation control measures shown on the

plans, 2. a \$5000 bond be posted before work begins on Phase 3, the demolition of the lodge and regrading. By Mr. Picton, seconded by Ms. Purnell, and passed 5-0.

Ms. Purnell noted the approval had been granted because the existing uses immediately next to the watercourse were being removed and pulled further away. The applicant had done a great job addressing the short term impacts and since the uses were being moved further from the watercourse there would be a net benefit to the environment.

Lewinter/86 Roxbury Road/#IW-07-12/Construct Barn: Mr. Neff, engineer, noted that since the site inspection Mr. Temple, soil scientist had been asked to recheck the areas the Commission questioned, but had not yet had time to do so. He said he would wait for this report before making any revisions to the plans. Mr. Picton noted that originally Mr. Neff had thought the proposal posed little threat of impact to any wetlands or watercourses, but since there were many runoff swales on the property, he asked that Mr. Neff address feasible and prudent alternatives such as attaching the barn to the existing garage.

Walsh/95 Roxbury Road/#IW-07-13/Build Stone Wall: Mr. Neff, engineer, presented his map, "Roadside Stonewall Plan," revised to 4/19/07. He explained he had added an opening at the wall base to accommodate the drainage coming from the road. He said although there was no watercourse the water would eventually reach the pond. Ms. Purnell recommended a small planted basin be installed just beyond the opening and said it was too bad there was no vegetation surrounding the pond. Mr. Neff said the owners were working on plans to dredge the pond and to install heat exchangers and he would talk to them about doing some planting when those activities were completed. Mr. Picton noted if the pond was better buffered and shaded it would make it a better air conditioning source in the summer. Mr. Picton voiced his concern that with only one opening in the wall, the sheetflow runoff would be concentrated, and he suggested a total of three openings spaced approximately 50 ft. apart in addition to the 12 ft. wide opening already there. He thought the construction of the wall would not impact the pond so there would be no reason to require additional buffer planting at this time.

MOTION: To approve Application #IW-07-13 submitted by Ms. Walsh to build a stone wall at 95 Roxbury Road as proposed with the condition that between the 12 ft. wide opening and the south end of the wall there be three equidistantly spaced openings at the base of the wall. By Mr. Picton, seconded by Mrs. Hill, and passed 5-0.

Parsell/13 Top Pasture Road/#IW-07-14/Accessory Apartment and Kitchen Additions and Installation of Septic System: Mr. Baker, engineer, noted he had submitted a letter dated 4/25/07 to discuss feasible and prudent alternatives and the on site constraints, which governed the location of the septic tank and pump chamber. The map, "Proposed Subsurface Sewage Disposal System, revised to 4/11/07 was reviewed. Mr. Baker said he did not retest the soils on site, but confirmed his original delineation, saying while they were not wetlands soils, they were poorly drained. It was noted that at most, one ft. of fill would be needed in the construction areas. Ms. Purnell asked if the removal of all vegetation would be required to install the leaching galleries and asked that this area be kept as narrow as possible. She said if too much vegetation was removed, there would be more water in the area and the curtain drain would be overworked. Mr. LaMunier agreed. Mr. Baker noted that although the width of the curtain drain was 1.5 ft., the excavator used for the work would create a 7.5 to 8.5 ft. cleared swath. Ms. Purnell asked if a smaller piece of equipment could be used. Mr. Baker agreed to clear only 3 to 4 ft. Mr. Picton asked that a substantial vegetated buffer be maintained and/or restored between the curtain drain and the property line. Mr. Thomson asked where the stockpile area would be and asked that this be added to the map. Mr. Thomson asked what would be done with the material taken off the driveway. Mr. Baker said 150 yards would be removed and trucked directly off site.

MOTION: To approve Application #IW-07-14 as submitted by Mr. and Mrs. Parsell to install a septic

system, enlarge the garage, and construct a detached accessory apartment and kitchen addition at 13 Top Pasture Road subject to the approval of the Health Department and with the following stipulations:

1. that the stockpile area be added to the plan,
2. that the stockpile area be outside the upland review area and the wetlands, and 3. that the brushy and/or wooded vegetated buffer be maintained and/or restored between the curtain drain above the septic and the western boundary line. By Mr. Picton, seconded by Mr. Bedini, and passed 5-0.

New Applications

Paggioli/1 Tinker Hill Road/#IW-07-15/Replace Floating Dock: Mr. Neff, engineer, presented his plan, "Floating Dock Replacement Plan," dated 4/16/07. He explained the existing float is tied to a pipe that sticks out of the bank. He proposed to drill two holes in a large boulder and put in eye bolts to anchor the new float and to take out the pipe. He noted the new 10 ft. by 10 ft. float would meet both the Zoning requirements for size and materials. Mr. Picton read the note on the plan, which stated naturally rot resistant materials would be used and pressure treated wood could be used only for framing and structural supports. After a brief discussion about the use of pressure treated wood in and over the water, Mr. Picton stated the float would be allowed as specified as long as the pressure treated wood would not be in continuous contact with the water. He asked Mr. Neff to submit construction details that would show that the structural wood would not be down in the water and that a sealer would be used. Mr. Ajello said he would like the Inland Wetlands Commission to act consistently with the Zoning Regulations regarding construction materials for docks and floats. Ms. Purnell said this should be discussed as a general policy issue and not in regard to a specific application. Mr. Picton asked if the pipe to be taken out had a function. Mr. Neff said it did not.

Steep Rock Assn./147 Sabbaday Lane/#IW-07-16/Replace Culvert: The applicant proposed to replace an old stone culvert on the main access road to Hidden Valley with a plastic pipe. The culvert had washed out in the last storm. Mr. Picton recommended the commissioners inspect the site on their own before the next meeting. A hand drawn sketch plan, undated, unsigned, was reviewed and Mr. Picton summarized the 4/24/07 letter from Mrs. Branson, which detailed the proposal.

Anderson/15 River Road/#IW-07-17/Reconstruct House: Mr. Neff presented the map, "Soil Erosion and Sediment Control Plan," by Mr. Neff, dated 4/23/07. It was noted the house would be reconstructed on the existing foundation, but not enlarged. Mr. Ajello noted the limit of disturbance line was near the brook due to the clean up operation. Mr. Picton noted the property was level and recommended individual site inspections because there would be no soil disturbance. He asked Mr. Ajello to review the application and have recommendations ready for the next meeting.

Malamed/115 River Road/#IW-07-18/Inground Pool: Mr. Neff, engineer, presented his map, "Soil Erosion and Sediment Control Plan," dated 4/23/07. Ms. Purnell noted there was a substantial instream pond on the property. Mr. Neff said the proposed pool site was beyond the 100 ft. setback, but the temporary construction access and conduits would be within 100 ft. of wetlands. A site inspection was scheduled for Thursday, May 3, 2007 at 4:00 p.m.

Enforcement

Andersson/35-45 Gunn Hill Road/Unauthorized Trenching in Wetlands: It was noted Mr. Andersson had not been able to attend the site inspection scheduled at the last meeting and so had asked that it be conducted on another date. The inspection was rescheduled for Thursday, May 3, 2007 at 4:30 p.m. Mr. Picton stated that it appeared the ditch had been dug to drain the wetlands, which was an activity the Commission usually tries to prevent. Mrs. D. Hill noted Mr. Andersson said the property would be a farm. Mr. Ajello said he had asked the applicant's attorney to submit a report to show a record of a valid farm operation. Mr. Picton explained that even on a valid farm permits are required;

that farms do not have blanket authority to adversely impact wetlands and watercourses. Ms. Purnell agreed and said she would research the issue and circulate copies of a recent court decision that found even for valid farms, an inland wetlands permit is required for regulated activities. She said adverse impacts could be minimized for agricultural uses.

Other Business

Discussion with Mr. Gambino re: DEP Aquatic Pesticide Permit Application Process: Mr. Gambino circulated his resume and the document, "Nuisance Aquatic Vegetation Management" and said he has done pond weed control since 1972 and also does invasive weed control. Mr. Picton asked if invasives can be removed without the removal of the entire forest understory. Mr. Gambino said they could. Mr. Gambino reviewed the application process for pesticide applications, saying each application is reviewed by the Ct. DEP Pesticide Division and the departments of Fisheries and Health. When he noted he had been able to obtain a permit last year for the Mnuchin pond even though there were Jefferson salamanders in the vicinity, the Commission expressed its surprise that it had not been notified of the application. Mr. Picton noted the Commission has valid concerns about pesticide use in instream ponds. Ms. Purnell said the Commission tries to work with property owners to "treat the disease, not the symptoms" by cutting down on the use of fertilizers and encouraging buffer plantings around the pond perimeter. Mr. Gambino said he, too, tries to work with property owners to restore the balance when problems result from landscaping, fertilizing, and faulty septic systems. He felt the DEP review was thorough, but Ms. Purnell said the DEP's local knowledge is limited and material such as the Natural Diversity Data Base is only as good as the data that gets put into it. Mr. Gambino responded that the DEP welcomes comments from the Town and he referred to the undated memo the Commission had received from the DEP Pesticide Program. Mr. Gambino thought it was not necessary for local commissions to require duplicate applications. He recommended 1) streamline the application process by reducing duplication, 2) have the WEO review the DEP pesticide applications as they are sent in by certified mail, 3) have the WEO notify the Commission chairman and the applicant, not the property owner, if he finds a problem when reviewing these applications, and 4) in those cases, hold the application until the local agency determines what should be done. It was noted Mr. Gambino would need a letter of authorization from the property owner if he was to be notified of any problems with the application. He also asked that the local fee be waived because there is already a \$100 application fee to the state. Mr. Picton noted the Commission's fees cover office expenses and the EO's time. Mr. Gambino noted the Commission had notified the property owners, but not the DEP that it was now requiring a local application. The DEP will be notified that the Commission wants to be part of the application process and this matter will be discussed again at the next meeting.

Myfield/7 Mygatt Road/Request to Revise Permit #IW-05-54/Overflow Pipe: Mr. Neff, engineer, submitted a letter dated 4/24/07, which proposed to change the 2 ft. deep X 8 ft. wide grassed stormwater detention basin emergency overflow channel to an enclosed piping system. The Commission thought the request was premature because less than half of the proposed impervious surfaces on site had been built. It was thought when the construction was complete there could be a greater concentration of runoff. It was the consensus that the applicant could reapply after it has been determined how the stormwater management system will function upon the completion of the project. The \$25 fee will be returned.

Enforcement

Adams/233 West Shore Road/#IW-07-10/Renovations, Driveway Reconfiguration, Inground Pool: Ms. Purnell said she wanted the ponding area to remain and that a planted rain garden could be required in this area because it would ameliorate the impacts of the proposed development. For the next meeting Mr. Picton asked Mr. Ajello to draft a motion of approval with specific conditions that address all of the concerns raised by the Commission.

Carter/292 Walker Brook Road (141 Shinar Mt. Rd.)#IW-04-V8/Repair of Retaining Wall: Ms. Purnell submitted photos she had taken, which, she said, showed that the wall directs the erosive force of the water towards the streambank. The last photo, in particular, showed evidence of erosion on the west bank. She noted her concern about the higher velocity of the flow and the resulting erosion and said sediment deposits downstream were also a concern. Mr. Ajello noted the Commission is still waiting for a report from the consultant. Mr. Picton recommended that Mr. Carter post a bond to cover any remedial measures needed and said if a response was not received from the consultant, the Commission would have to propose a resolution.

Bransfield/21 Walker Brook Road: Ms. Purnell said there were unauthorized activities on this property that should be investigated.

Collins/323 West Shore Road/Unauthorized Clearing and Soil Disturbance: Mr. Ajello noted that Mr. Collins had paid his citation and this item could be taken off the agenda.

DiBenedetto/212-214 Calhoun Street/Unauthorized Clearing, Restoration of Understory: It was noted Mr. Jontos, consultant, would inspect the property to investigate the potential impacts from the work done in the pilot area and in the newly cleared areas. He will be asked to compare the work done with that approved in the pilot area permit and to make simple recommendations regarding remediation measures for the other areas. Mr. Picton asked Mr. Ajello to make sure Mr. Jontos received copies of the enforcement order, site inspection report, and all pertinent minutes so it would be clear to him what the Commission's concerns are. Ms. Purnell also recommended that Mr. Jontos look at the "before" photos in the file so he would know what had been lost on the property.

MOTION: To uphold the 4/18/07 enforcement order issued to Mr. DiBenedetto for unauthorized clearing at 212-214 Calhoun Street but to suspend the requirement to reflag the wetlands and to restore the understory until after a report is received from the Commission's consultant. By Mr. Picton, seconded by Ms. Purnell, and passed 4-1. Ms. Purnell voted No because she thought the reflagging of the wetlands should be the first step in the enforcement process.

Fowler/138 Nichols Hill Road/#IW-05-58/Remediation Per Order: Mr. Ajello noted that Atty. Kelly had advised him that Mr. Fowler's permit says he has five years in which to conduct and complete the restoration. Mr. Picton noted however, that the Commission had been clear in stating the restoration work should be done as soon as possible, and that it had been reasonable to expect it would have been done in the next growing season. He noted the Commission had specified at the last meeting that it wanted an enforcement letter sent to Mr. Fowler to make it clear the restoration work must be done by the end of June 2007.

Reinhardt and Cremona/Perkins Road: Mr. Ajello reported that Atty. Kelly wanted either the authority of consent and waiver over every aspect of the job or for the Commission to follow all municipal procedures. He said according to the consent order, Atty. Kelly had no right to expect this authority. The Commission asked Mr. Ajello to advise Atty. Kelly that for the record, the Town was interested in getting the restoration work done as quickly and as efficiently as possible.

Rubler/240 Wykeham Road/Driveway Washout: The applicant wanted to proceed with the well relocation only. It was noted the citation had not yet been paid, nor had the slope stabilization information been received. New activities may not begin until all of the documentation requested has been received.

Yourwith/259 New Milford Turnpike/Unauthorized Excavation and Installation of Drain: Mr. Picton noted this is a violation and so a remedy is needed, not an application. Mr. Ajello said Mr. Hayden from the Conservation District would be helping Mrs. Yourwith to draft a plan.

Moore/25 Litchfield Turnpike/Unauthorized Filling, Clearing: Mr. Ajello reported the violation had

been filed on the Land Records and Mr. Moore had been fined.

Wright/59 Scofield Hill Road/Unauthorized Clearing, Filling, Soil Disturbance: Mr. Ajello said the job was half done, but that more rip rap was needed. Ms. Purnell noted the runoff from private properties was causing problems on the town road.

Plourde/33 East Shore Road/Unauthorized Clearcutting: Mr. Ajello noted the Land Records had been attached and said this item could be taken off the agenda. Mr. Picton asked why Mr. Plourde had not been fined. Ms. Purnell stated the work had not been done in wetlands and had not resulted in an evident direct impact to the wetlands.

Steep Rock Assn./River Road/Clearing of "McKennee" Field: Mr. Ajello will inspect the site with Mrs. Corrigan to investigate the possibility of a vernal pool.

Feola/84 Carmel Hill Road/Restoration of Vernal Pool: It was noted the Feolas had been sent a repeat enforcement order, but had not paid their fine. Mr. Ajello said it had been sent certified mail, but they had not picked up the letter. He was asked to send another letter to inform them that if they do not pay this fine, they will be issued a third citation. Their Land Records have been attached.

Caco/16 Fliftation Avenue/Unauthorized Clearing, Grading: Mr. Ajello had not contacted Mrs. Caco.

MOTION: To adjourn the meeting. By Mr. LaMuniere.

Mr. Picton adjourned the meeting at 11:22 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill

Land Use Coordinator