

November 28, 2007

MEMBERS PRESENT: Mr. Bedini, Mrs. Hill, Mr. LaMuniere

Mr. Picton, Mr. Thomson

ALTERNATE ABSENT: Mr. Potter

STAFF PRESENT: Mr. Ajello, Mrs. Hill

ALSO PRESENT: Mr. Lautier, Mr. Wadelton, Mr. Thompson, Mr. Neff, Mr. Johnson, Mr. Hardisty

REGULAR MEETING

Mr. Picton called the Meeting to order at 7:03 p.m. and seated Members Bedini, Hill, LaMuniere, Picton, and Thomson. Mr. Picton welcomed Mr. Wadelton, who would soon be appointed as an Alternate.

MOTION: To add the following subsequent business to the agenda: Other Business: B.Renick/12 Green Hill Road/Revision of Permit #IW-07-47/Pour Concrete Wall, C. Potter/Sunny Ridge and Hinkle Roads/ Preliminary Discussion/Lot Line Revision, D. Revision of the Inland Wetlands Regulations, and IX. Executive Session to Discuss Pending Litigation. By Mr. Bedini, seconded by Mrs. Hill, and passed 5-0.

Consideration of the Minutes

The 11/14/07 Show Cause Hearing/Regular Meeting minutes were accepted as corrected.

P. 1 and 8: The correct spelling is Mr. Thompson.

P. 4: Under Fisher: #3: Add at the end of the sentence: "instead of the footbridge and deepened channel originally proposed."

P. 5: 5 lines up from the bottom of the first paragraph: Change: "big willow" to: "bushes just 5 feet east of the birch."

P. 9: 3rd line: Change: "sheer" to "shore."

P. 9: Under Myfield: 6th line: Change: "moving" to: "locating."

P. 9: Under Myfield: in the motion: after the permit # change to: "to encompass changes to the plans as revised to 10/22/07 for the affordable...."

P. 11: Under Andersson: last sentence: Change: "fine ordinance" to "citation ordinance #720."

P. 12: Under Revision of the By-Laws: first sentence: Change: "Mr. LaMuniere" to: "Mrs. Hill."

P. 13: Under Assignment Sheet: first sentence should state: Mrs. J. Hill....

MOTION: To accept the 11/14/07 Regular Meeting Minutes as corrected. By Mr. Bedini, seconded by Mrs. Hill, and passed 5-0.

MOTION: To accept the 11/20/07 Getnick site inspection minutes as written. By Mr. Picton, seconded by Mr. Bedini, and passed 5-0.

MOTION: To accept the 11/21/07 Madoff site inspection minutes as written. By Mrs. Hill, seconded by Mr. Bedini, and passed 5-0.

The 11/26/07 Lodsins site inspection minutes were accepted as amended. Mrs. Hill asked that the following sentence be added, "The piles of wood chips that were on site when the Commission made

its last inspection are now overgrown and in the area just past the phone poles there was a wire fence in disrepair."

MOTION: To accept the 11/26/07 Lodsins site inspection minutes as amended. By Mrs. Hill, seconded by Mr. Picton, and passed 5-0.

Pending Applications

Barnet/32 Sabbaday Lane/#IW-07-52/Reconstruct Barn: Mr. Hardisty, engineer, discussed the plans, "Historic Barn Reconstruction," by CES Engineering, revised to 9/28/07. It was noted he had no written authorization to represent the property owner. Mr. Charles noted the Commission wanted to know whether the existing foundation was strong enough for the new construction and whether there was a feasible and prudent alternate site with less impact on the wetlands. Mr. Picton noted the staging area was not indicated on the map, nor were the limit of disturbance and regrading lines, or eventual landscaping. Mr. Hardisty said the foundation was sound, but that sonotubes might be put in within its perimeter to provide additional support. He said the work would be done from the parking areas to the north and south of the building, but not from the rear, where the land drops off sharply. He noted the rebuilt barn would be 13 feet shorter than the original, so would be less obtrusive, and that a patio would be installed in this area. Mr. LaMunier asked if the trees on the north side would be cut. Mr. Hardisty said there was no need to cut them and that the trees at the edge of the wetlands would also remain. Mr. Ajello noted erosion control notes and a sequence of construction had been submitted. Mr. Picton said the proposed activity was not just the reconstruction of the barn, but its reconstruction and conversion to a house. He said again, the Commission had asked for a discussion of alternative locations. Mr. Hardisty said the plan was to rebuild the barn on the existing foundation so there were no alternatives. He said there were no alternative locations for the septic system and that any other building site would have to meet zoning setbacks as well as wetlands setbacks and would require a wetlands crossing. Mr. Picton pointed out another house location within 30 feet of wetlands and said the Commission had to consider it to determine whether it would have less impact. Mr. Ajello said that site would require excavation and regrading. Mr. Hardisty noted rebuilding the barn on the existing foundation would require some regrading because the foundation must be raised 1.5 to 2 ft.. Mr. Picton noted this was not shown on the site plan. He also asked that the full extent of the parking areas, delineation of the work area, and site improvements and landscaping for the house be shown. Mr. Bedini pointed out ditching on the site plan. Mr. Hardisty said there would be a pipe from the house to the septic system and an underground line for utilities, but that neither would require regrading. He said he did not show the full extent of the parking area or regrading lines because no changes were proposed. Mr. Ajello said he had asked the applicant to show all underground tanks, overhangs, generators, etc., and since there were none shown on the map, he assumed none were proposed. Mr. LaMunier noted that any other house location would be within the 100 ft. setback and would cause more disturbance than the proposed construction on the existing foundation, so the proposed reconstruction was OK with him as long as the Commission was sure that was all that would take place. Mr. Picton asked if the site plan was detailed enough and ready to approve. Mr. LaMunier said the surface area of the gravel parking area to the north should be added. Mr. Thomson noted his concern about gutters and downspouts. Parking was discussed and it was noted there would be a three bay garage and parking on the south side as well. Mr. Picton asked that the south side driveway and parking configuration also be added to the map. Mr. Bedini noted this area would most likely be spread with crushed stone and so agreed that it should be indicated on the map. It was noted that some of the wetlands on the property are currently hayed, but there was nothing in writing to specify how this area would be maintained in the future. Mr. LaMunier suggested it be mowed several times to kill the invasives and then mowed once per year. Mr. Hardisty was shown a copy of the Kessler/Nettleton Hollow Road site development plan to illustrate the type of detail the Commission expects on a site

plan. Mr. Hardisty was asked to submit a detailed site plan, which would include the items mentioned above plus the patio, any paths or walkways, air conditioning units, generators, etc. and plans for how the wetlands will be protected from landscaping, and a letter of authorization. The Commission will act on the application at the next meeting.

Getnick/237 West Shore Road/#IW-07-62/Repair Stonewall: Mr. Picton read the 11/27/07 email from Mr. McGowan, which conveyed the professional opinion of Dr. Kortmann, limnologist, about stone and concrete retaining walls along the lake shore. Mr. Thompson, contractor, showed photos of the Getnick wall and shoreline. Mrs. D. Hill noted that the list of materials and amounts of each material to be used to repair the wall was identical to the one in Getnick's previous file. She did not think the existing wall was in such poor condition that it would take all of the materials listed to repair it. She also noted that the plan indicated that the topography behind the wall would be changed. Mr. Thompson said he would not change the grade, but would deposit gravel for drainage. Mrs. Hill noted that the map submitted did not refer to the work proposed in this application and that the length of wall specified to be worked on differed on the plan vs. the application form. Mr. Thompson said he would remeasure to make the numbers consistent. He said he would not excavate into the lake, but would build the wall up on the existing stones. It was noted that Milone and McBroom had been asked to comment on the construction of stonewalls along the lake shore. Mr. LaMunier suggested that the Commission wait for its review before acting on the application and recommended that the consultant inspect the Getnick, Madoff, Adams, and Brown properties and comment on each site. Mr. Thompson proposed to rebuild the stonewall to match the section already rebuilt, noting he would use mortar. Mr. Picton noted that Dr. Kortmann had spoken of the benefits of a natural shoreline and said the consultant should be asked whether the wall should be loose or mortared. Further discussion was tabled.

Madoff/241 West shore Road/#IW-07-63/Repair Stonewall: Mr. Picton noted that the same comments made above regarding the Getnick application applied to this one. The one difference, he said, was that this property has a stretch of shoreline that looks more natural and he wasn't sure there had previously been a stonewall there. He said that the natural shoreline provided habitat and dissipated the waves; both functions with ecological significance. He was not sure that every rocky shoreline should be converted to a wall. He also noted the existing shoreline in this area was stable. Mr. Thompson said he would discuss this matter with the property owner. Mr. Picton suggested that only the existing walls be maintained, but said the Commission would wait for a report from its consultant before making a decision.

New Application

Lautier/56 June Road/#IW-07-64/Thinning, Erosion Controls, Planting: Mr. Ajello said when Mr. Lautier had begun tree work on the property, he had requested that he submit a stabilization and planting plan for the area near the intermittent stream. Mr. Lautier responded with a plan by Aspetuck Garden and an application that included placement of stabilization mats on the steep slopes. Mr. Ajello circulated photos of the property. He said there had been "borderline clearcutting" on the steep slope in a highly erodable area. He noted, however, that a canopy remained. Mr. Lautier said he would plant mountain laurel and dogwood as soon as possible in the spring, but would install erosion blankets and hay bales immediately. Mr. Ajello said he had asked the owner to spread leaf mulch and hay on the bare slopes and that he did not think a bond was necessary. Mr. Picton explained that the Commission could not act on the application until the second meeting, but asked that the stabilization measures be implemented as soon as possible. The commissioners will inspect the property on their own before the next meeting. Mr. Lautier described driveway improvements that he wants to make near the watercourse. Mr. Picton asked him to draft a design and then make an application to the Commission.

Other Business

Hackney-Holiman/125 West Shore Road/Request to Revise Permit #IW-07-60/Buried Conduit:

Mr. Ajello pointed out on the partial site plan dated 11/28/07 where the power line would be buried. At its closest point the trench would be 60 feet from the lake. Mr. Johnson, contractor, explained that the DOT doesn't allow trenching under the state road except under the "Call Before You Dig" guidelines, and added that a separate meter and transformer would be required if this was done. Mr. Ajello said he saw no problem with the plan as proposed.

MOTION: To approve the request to revise Permit #IW-07-60 issued to Mr. Hackney and Ms. Holiman to demolish and rebuild the studio and deck at 125 West Shore Road to include a buried conduit per the site plan dated 11/28/07. By Mrs. Hill, seconded by Mr. LaMuniere, and passed 5-0.

Renick/12 Green Hill Road/Request to Revise Permit #IW-07-47/Concrete Footing: Mr. Ajello reported that sloping ledge had been found under the wall and so a concrete footing was necessary. Mr. Neff, engineer, reviewed his plan, "Retaining Wall Replacement Plan," revised to 11/27/07. He explained that the 8" concrete footing would be pinned into the wall and would take the place of the lowest course of block. Mr. LaMuniere noted there had been a lot of work done recently to the house and he asked how the runoff is managed. Mr. Neff stated there is a splash pad and from there the runoff spreads out over the ground.

MOTION: To approve the request to revise Permit #IW-07-47 issued to Mr. Renick for a retaining wall at 12 Green Hill Road to include concrete footings per the plan by Mr. Neff revised to 11/27/07. By Mrs. Hill, seconded by Mr. Bedini, and passed 5-0.

Potter/Sunny Ridge and Hinkle Roads/Lot Line Revision/Preliminary Discussion: Mr. Neff, engineer, presented the map, "Property/Boundary Survey, Lot Line Revision," by Mr. Alex, dated July 2007, revised to 10/15/07. He noted lot line revisions between existing separate parcels were proposed; there are now five lots and there will be five when they are reconfigured. Mr. Picton said that Mr. Potter must submit documentation that proves all of the lots are existing. Mr. Neff noted that the soil types were taken from the USDA maps and that the wetlands soils had not been flagged on site. Mr. Picton noted that the USDA information is often inaccurate and so the Commission did not know exactly where the wetlands were in relation to the proposed development. He said the Commission could not act on a plan showing development without knowing the exact location of the wetlands. He said building sites and possible wetlands crossings would concern the Commission. Mr. Ajello noted the application was for lot line revisions, not to build. Mr. Picton suggested then, that a map showing only the proposed lot lines be submitted to Wetlands. He asked Mr. Ajello if he had inspected the property. Mr. Ajello responded that Lg soils could not be detected by looking at a cornfield. Mr. Bedini agreed, adding that he had observed water on the cornfields and so thought the wetlands should be flagged. Mr. Neff noted that there are existing roads on all four sides of the property and so he felt certain that the Commission would see that there were no access problems once it conducted a site inspection. A site inspection was scheduled for Tuesday, December 4, 2007 at 4:00 p.m. although Mrs. D. Hill noted none of the commissioners was a soil scientist certified to identify wetlands soils.

Enforcement

Andersson/35-45 Gunn Hill Road/Unauthorized Clearing, Trenching: Mr. Ajello stated that Land Tech had inspected the property earlier in the day and its report would be submitted soon.

Bowles/52 Carmel Hill Road/Subdivision: Mr. Ajello inspected the property and confirmed there were no wetlands.

DiBenedetto/212-214 Calhoun Street/Restoration of the Understory: Mr. Picton asked what was holding up Land Tech's inspection of the property. Mr. Ajello said he had not yet been able to coordinate an inspection with Mr. DiBenedetto. Mr. Picton asked, then, that Mr. Ajello and Land Tech

inspect the site on their own because for the last three months there had been no progress made on resolving this matter.

Brown/127 West Shore Road/Unauthorized Work Along Shoreline: Mr. Picton asked when the Milone and McBroom report would be submitted. Mr. Ajello responded that the estimate and proposal would be sent in soon. Mr. Picton asked if Mr. Ajello had assembled all of the Commission's questions in the letter requesting the review. Mr. Ajello said he would repeat each of the questions to the consultant. Mr. LaMuniere noted the review could not be generalized, specific comments were needed. Mr. Ajello noted the consultant would inspect the lake shore and the Brown, Adams, Getnick, and Madoff shoreline walls as the Commission had requested earlier in the meeting.

Janco/11 June Road/#IW-07-V9/Unauthorized Excavation, Stairs: Mr. Ajello recommended that erosion blankets be put down to stabilize the steep slope. Mr. Picton thought this work was overdue and asked Mr. Ajello to immediately send an enforcement letter to specify exactly what stabilization work must be done and to call the Jancos tomorrow to tell them that they would receive another citation if the restoration work was not completed within 10 days. He noted a request for a stabilization plan would not be sufficient.

Drakely/59 River Road/#IW-07-V1/Unauthorized Clearing: It was noted that Mr. Drakely had paid his citation, but otherwise had not responded to the enforcement letter sent to him. Mr. Bedini said that the Commission should establish a policy to fine people per day until the ordered restoration work is done. He noted that most property owners do not respond quickly to enforcement letters. Mr. Picton agreed that the Commission should discuss a change to the Ordinance. Mr. Picton directed Mr. Ajello to monitor the property to make sure the owner was allowing the vegetation to grow back.

Fowler/#IW-05-58/Remediation Per Order: Mr. Picton asked if another citation could be issued for failure to promptly restore the site, but Mr. Ajello responded that the permit was good for 5 years. He noted, too, that the Land Records had been attached. Mr. Picton said the permit specified the work was to be completed within the growing season, so Mr. Fowler was not in compliance with the permit. Mr. LaMuniere noted that specific time limits should be specified in future restoration orders. Mrs. D. Hill recommended that permits be valid for only 2 years, not 5.

Reinhardt-Cremona/Perkins Road/Execution of Approved Restoration Plan: Mr. Ajello said the planting was done and the new plants had been labeled. Mr. Picton asked Mr. Ajello to make sure that Mr. Childs had written a plan for the continuing maintenance of the site. A site inspection was scheduled for Tuesday, December 4, 2007 at 3:00 p.m.

Kessler/Nettleton Hollow Road: Mr. Thomson asked if monitoring had been a condition of approval. Mr. Ajello said it was and that the process had begun today with a preliminary on site meeting. Mr. Kessler will soon post the required bond.

Lodsin/78 Litchfield Turnpike/#IW-07-V12/Excavation in Wetlands: Mr. Bedini recommended that the State Commissioner of Motor Vehicles and the DEP be sent copies of the site inspection and Regular Meeting minutes as there were many flagrant violations on site. Mr. Picton noted that Mr. Lodsin told the Commission that he was farming the property and that he was removing beaver dams, but said the Commission had found little evidence of a farming operation or of beaver dams. It was noted the Commission had approved a 30 ft. by 70 ft. area for the planting of seedlings, but Mr. Lodsin had never done the planting. Mr. Ajello said he had sent a notice of violation. Mr. Picton asked that this be followed up with an enforcement order to restore the property under the direction of the Commission and its consultant. He said he would consult with Atty. Zizka on the proper procedures and about securing the cost of the required restoration. It was the consensus that a cease and desist order would be sent and a show cause hearing held on December 12, 2007. Mr. Bedini recommended that the Commission hire a consultant to estimate the bond for the clean up work. Mr. Ajello said he would file

the notice of violation on the Land Records. Mr. Thomson thought it would be a good idea to keep other Town organizations with funds to purchase open space apprised of the situation, but Mr. Bedini asked whether sending information to agencies with no jurisdiction would taint the Commission's legal standing. Mr. Picton will ask Atty. Zizka. Mr. Thomson noted his concern that contaminants from all of the junk on site were seeping into the groundwater.

Mello/183 Woodbury Road/#IW-07-V11/Unauthorized Bridge and Culvert Work in the Brook:

Mr. Szymanski will attend the December meeting to report on whether the new culvert was properly sized.

Town of Washington/Titus Road/River Loop Property: The commissioners asked whether the soil stockpile on this property had been tested. Mr. Ajello said the soil had been trucked off site. It was not known where it was taken.

Moore/25 Litchfield Turnpike/Unauthorized Filling, Clearcutting: Mr. Moore had been directed to seed and mulch the disturbed areas, but had not yet reported that he had done so. Again, it was noted that the Commission had not specified a time limit in which the work had to be done and should be careful to do so in the future.

Rubler/240 Wykeham Road/Clearing and Driveway Washout: The Commission will hold the bond until all work is completed.

Peloquin/1 New Preston Hill Road/#IW-07-V13: Mr. Ajello said he would soon mail a notice of violation for unauthorized clearing, deposition of material, and stonework next to the Aspetuck River. Mr. Ajello said he had photos of the property taken last year so he would be able to determine what work had been done without permits. Mrs. D. Hill noted that this was a known violation with enforcement in progress and so should have been listed on the agenda.

Other Business

Revision of the By-Laws: The proposed language for Section 3 was reviewed and determined to be OK. The proposed new Section 12: Removal of Member for Non Participation, however, was further revised. The new wording will be mailed out prior to the next meeting. It was noted that the DEP Inland Wetland Commissioner Training Course is valuable for new Members and it was the consensus that they should be notified in writing at the time of appointment that completion of the course within 2 years is required.

Citations: It was noted a revision of the Town Ordinance would be necessary to increase the fine schedule. Mrs. Hill will send the proposal voted on at a previous meeting to the Selectmen's Office. This item will remain on the agenda.

Revision of the Regulations: Mr. Picton had reviewed the draft prepared by the subcommittee and noted his concern that the regulations wouldn't be as good and that clarity would be lost if the DEP model regulations were adopted. He gave the definition of clearcutting as an example, pointing out that the model regs say cutting of "all" trees, while the current Town Regulations say, "majority" of trees. He suggested that the Commission hire a consultant to make sure that the best of both regs are adopted. Mr. LaMuniere, however, noted this was the third time the Commission had begun to work on this project and urged that the subcommittee move forward. Mrs. D. Hill agreed that the model regs have less detail, but felt that would give the Commission more flexibility and discretionary power. She said it would be impossible to compare the two sets of regulations phrase by phrase, but thought additional subjects could be added to the model regs if needed. Mr. Thomson noted that the subcommittee was doing its best to reconcile the two, adding that Mr. Picton had brought up relevant points, which would be considered.

Mr. Bedini spoke briefly of the Primary School and how important it was for the Town to have accurate floodplain data. It was noted that whatever work is done to the Primary School, FEMA, the Army Corps of Engineers, Bill Jenks as floodplain officer, the DEP, and the Inland Wetlands Commission would be involved. Mr. Bedini said the Building Committee was considering tearing up and reapplying blacktop, running stormwater runoff into the Shepaug, and putting in a new courtyard at the school. Mr. Picton said the Commission should provide the Committee with a list of concerns such as displacement of water, change in direction of the flow of floodwaters, increase in impervious surfaces, preservation of vegetation, changes in grade, etc.

MOTION: To go into Executive Session at 10:28 p.m. to discuss pending litigation. By Mr. Picton, seconded by Mr. Bedini, and passed 5-0.

MOTION: To end Executive Session at 10:40 p.m. By Mr. Picton, seconded by Mr. Bedini, and passed 5-0.

Mr. Ajello was asked to investigate whether the Inland Wetlands Commission is authorized to require performance bonds.

Mrs. J. Hill was asked to send the information from Dr. Kortmann to Atty. Zizka.

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

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill, Land Use Coordinator
