

February 8, 2012

Public Hearing – Regular Meeting

5:00 p.m. Land Use Meeting Room

MEMBERS PRESENT: Mr. Bedini, Mr. Bohan (Meeting only,) Mr. LaMuniere, Mr. Wadelton

MEMBER ABSENT: Mrs. Hill

ALTERNATE PRESENT: Mr. Papsin

ALTERNATES ABSENT: Ms. Cheney, Mr. Martino

STAFF PRESENT: Mr. Ajello, Mrs. Hill

ALSO PRESENT: Mr. Allan, Atty. Olson, Atty. Andrews, Atty. Williams, Mr. Buck, Mr. Cohen, Mr. Klein, Atty. Sullivan, Mr. Virbickas, Mr. Logan, Ms. Gadwa, Mrs. Payne, Mr. Neff, Mrs. Frank, Mr. Werkhoven, Mr./Mrs. Crumrine, Mrs. Condon, Ms. Zelenko, Ms. Purnell, Mr. Solomon, Mrs. Buonaiuto, Atty. Kelly, Mr. Johnson, Mr. Baker, Residents, Press

PUBLIC HEARING

The Gunnery, Inc./22 South Street/#W-11-40/Athletic Fields

Mr. Bedini reconvened the public hearing at 5:09 p.m. and seated Members Bedini, LaMuniere, and Wadelton and Alternate Papsin for Mrs. Hill. Mr. Wadelton read the list of documents submitted to the file since the last session of the hearing.

Representing the applicant, Atty. Williams stated that he had experts present who would present factual information to refute what he said were Mr. Logan's unfounded assertions made at the last session of the hearing and would show there was no evidence the proposed activities would negatively impact the wetlands. He introduced the experts; Mr. Klein, biologist and soil scientist, Mr. Buck, engineer, and Mr. Cohen, a turf management specialist with a Ph.D in Chemistry. He submitted a brief outline of the topics the experts would address.

Mr. Klein briefly cited his qualifications. He stated he had carefully reviewed Mr. Logan's 1/10/12 report and had found unsupported statements regarding the site conditions and impacts to wetlands and watercourses. He reviewed the points he made in his 2/1/12 letter to Mr. Williams, which included the following: 1) Referring to the map of Sheet #7 of "South Street Athletic Fields," by Smith and Company, revised to 1/31/12, Mr. Klein explained that REMA had incorrectly assumed the soil classifications were hydrological soils groups, when they actually were Zoning soil classifications. 2) REMA had insufficient evidence to claim the drainage calculations were incorrect. 3) All soils on site were well drained and composed of less than 35% silt in the upper 20 ft. layer. 4) Mr. Klein stated that vegetation was not indicative of soil drainage classes. 5) Mr. Klein disputed REMA's contention that there is a small wetland in the approximate center of the area where the fields are proposed. He noted that Mr. Beroz and Mr. Allan of Land Tech, both soil scientists, agreed this area is not a wetland and he said it does not match the criteria for wetlands in the Army Corps of Engineers drainage class manual. He pointed out this area on Sheet #4. 6) He also disagreed with REMA's recommendation that this area should be regulated as a watercourse. Mr. Klein explained there was less than half an inch of standing water in a diffuse area with no defined shoreline. He also noted REMA's observations were made during the winter in a year with heavier than normal rainfall and that Mr. Allan had agreed it was not a watercourse.

7) Mr. Klein noted REMA's concern about the possibility that the proposed sediment traps and silt fence would allow very fine soil particles to pass through. He said although there was an extensive vegetated buffer between the disturbed area and the wetlands so he did not think there would be any adverse impacts resulting from the proposed construction, the applicant had made improvements to the erosion control plans. 8) Mr. Klein said that earthwork was not a big issue because there was a large buffer, appropriate controls would be implemented, and the area would not be open for any substantial length of time because sod would be installed. 9) Mr. Klein stated that REMA had not submitted evidence to show that there would be long term hydrological changes to the wetlands to the north and to the northeast. He referred to studies, which found there were no such changes when forest was converted to grass so long as the grass was maintained. 10) REMA stated there would be adverse impacts to water quality, but Mr. Klein said the effects of logging would not be significant and that logging had not been linked to adverse impacts in water quality. 11) In response to REMA's claim that there would be increased runoff from the site and it would contain concentrated nutrients, Mr. Klein stated that the runoff volumes would be reduced due to increased infiltration, erosion blankets would be used, and there would be no adverse impact on water quality for the biota in the wetlands or for human health. 12) Mr. Klein stated that there were no links between changes in wetlands hydrology and the spread of invasive plant species. 13) Mr. Klein said the REMA projections regarding truck traffic impacting the wetlands were not relevant comparisons as they had referred to impacts on wetlands from 5000 – 8000 trips per day on major expressways, whereas, after construction traffic on The Gunnery driveway would be light. In conclusion, Mr. Klein stated the wetlands had been correctly identified, the erosion control measures had been improved, and there was no credible evidence for the interveners' claim there would be adverse impacts to the wetlands.

Mr. Buck, engineer for the applicant, also addressed points raised by REMA in its 1/10/12 letter. 1) Regarding REMA's statement that it would take 600+ truckloads to bring in the 12 inches of sand needed on the fields in order to reduce the total volume and peak rate of runoff from the site, Mr. Buck said that because the fields would be nearly level, there would be more time for infiltration, resulting in a reduction of the total volume and peak rate of runoff. He said he would use soils already on site for the fields and would add 1 inch of sand if it was determined to be necessary. 2) Mr. Buck stated that additional trucks would not be needed to haul away the stumps because they would be taken out by the sand and sod delivery trucks already on site. He estimated 250 truckloads of materials would be brought in. 3) Mr. Buck noted that REMA had identified weaknesses in the erosion control plan and so improvements had been made to aid in the trapping of fine silts. 4) Also, in response to REMA's suggestion that the level spreader as proposed would be wet all of the time, a layer of gravel had been added that would allow it to dry out within a day or two of storms. 5) Mr. Buck stated that REMA had correctly pointed out that 2.5 acres of land up hill from the driveway currently drains into the west wetlands where The Gunnery well fields are located, but as proposed, would be intercepted so it would flow to the east of where it flows now. He said this was only 2.5 acres of a 40 to 50 acre watershed so there would be little impact and noted that it would take some of the runoff away from South Street where neighbors had complained about drainage problems.

Mr. Cohen, scientist from Environmental and Turf Services, Inc., talked about his background, which included pesticide and heavy metal assessment, environmental chemistry, and environmental risk management. He submitted a hard copy of his power point presentation and supplemental report. The issues in his 2/2/2012 report, which he briefly discussed included: 1) He explained the turf management plan provides a sound basis so that there will be no impacts to

wetlands and watercourses. 2) He noted that Mr. Klein had done additional soil testing at his request and had found acidic well drained sandy loams. He said these soils were suitable for turf, but he recommended that 2 inches of compost be incorporated. 3) Mr. Cohen stated that proper thatch control, mowing, and over seeding with rye would cut down the need for chemicals throughout the year. 4) He disagreed with REMA's opinions about the use of nitrogen and said if his maintenance recommendations were followed there would be no excess nitrogen from the fields. 5) He briefly discussed irrigation and said if done between 5:00 and 8:00 a.m. fungicides would be washed away. 6) Mr. Cohen said he had conducted conservative risk screening and qualitative analysis and had determined there would be no risk of adverse impacts. He also conducted a qualitative analysis, which assumed 5% runoff of pesticides during storms and 1% leaching into the groundwater and had concluded there would be no impacts to people or to aquatic organisms and minimal potential for impacts to the wetlands and to Kirby Brook. 7) He recommended the use of a monitoring and scouting form on a regular basis so that the information gathered could be used after three years to revise the turf management plan if needed.

Mr. Bedini asked if any of the commissioners had questions for the applicant. Mr. LaMunier said the materials presented were highly technical and so he would like an opportunity to study them before raising questions.

Atty. Sullivan submitted the 2/8/12 "Memorandum of the Interveners" from Atty. Marcus for the interveners.

Mr. Virbickas, engineer for the interveners, asked whether the application made sense and raised many issues including: 1) From an athletic standpoint, the fields had an east – west layout, resulting in a dangerous condition because the players would be looking into the sun. 2) Mr. Virbickas disagreed with the applicant's engineers who, he said, stated there were no slopes over 15% on site. He stated that using a map with 2 ft. contours he had determined that 25% to 30% of the area to be developed was in excess of 15%. 3) Regarding parking, he noted that not many spaces were proposed to accommodate two fields and he asked if the drainage system design took into account future parking needs. 4) Mr. Virbickas had many questions about the proposed drainage system. He noted that the 475 ft. long curtain drain along the south side of the fields would capture the runoff and bring it to the infiltration system with level spreader outlet. He said the level spreader was 5 to 6 ft. below grade, while it was indicated the groundwater level was only 18 to 24 inches below grade, and noted that no soil testing had been done in this area. He also questioned whether 1500 ft. of curtain drain should disburse into three trenches with a total width of only 500 ft. He also said there had not been enough test holes done to confirm assumptions regarding the ability of runoff to infiltrate back into the ground. 5) Mr. Virbickas said the proposed well to the east was only 10 ft. from a proposed storm drain and that the Health Code requires a minimum 25 ft. separation. 6) He indicated that a better location for the well would be upgrade of the proposed work so there was less chance it would be impacted by pesticides or improper construction. 7) He called for the resizing of the temporary sediment basin due to the amount of water that would flow into it. 8) Mr. Virbickas said the proposed stockpile areas were too small to accommodate all of the material and that one was located in line with a temporary diversion swale, which could undermine it, causing materials to wash down the slope. 9) Mr. Virbickas stated the plans for the 10 ft. wide "reverse bench" shelf had not been graded correctly and so would not function properly. 10) He said that level spreaders should be designed per the 2004 Connecticut Stormwater Quality Manual, which recommends no infiltration trenches within 50 ft. of slopes over 15%. He noted that level spreader #3 was proposed on a 31% slope, well in excess of this

recommendation. 11) He stated there were small drafting errors throughout the plans. 12) Mr. Virbickas claimed that if constructed as proposed, a 150 ft. section of the drainage system would be 50 ft. up out of the ground. 13) Mr. Virbickas said that due to the bends and loops in the curtain drain, it would be difficult to maintain. 14) He stated he had found a discrepancy between the drainage calculations and the design of level spreader #2 and so recommended these calculations be done again and corrected. 15) Mr. Virbickas did not agree that when 12 acres of forest was cut there would be no increase in the amount of runoff, saying he had run the same program and the runoff coefficients did not work at all. 16) He recommended that due to the proposed 18 ft. cuts and fills that the plans be referred to a geotech engineer versed in soils and soil stability.

Mr. Logan of REMA submitted the 2/8/12 continuation of his review. He said it responded to Mr. Klein's comments, but said he had no time to respond to Mr. Cohen's calculations. 1) Mr. Logan said he had misunderstood the notations regarding soil classes, mistaking them for the hydrological soil classes used for drainage calculations. 2) Mr. Logan stated that the soil borings referred to in the Welti logs were to locate bedrock, not to determine soil types and so Mr. Klein's assertion that most of the soils on site are well drained is incorrect. 3) He said that Mr. Klein had incorrectly read the section of the report re: gray till, missing the point that a major portion of this till is fines. 4) Mr. Logan disagreed with Mr. Klein's opinion that some of the vegetation referred to in the 1/10/12 REMA report were not wetlands indicators. 5) Mr. Logan said Mr. Klein's findings of well drained soils were because his borings were not deep enough. He referred to a July 2000 soils map by Mr. Beroz, indicating Paxton soils, which he said were problematic. Mr. Logan asked why the applicant had used outdated NRCS mapping instead of the Beroz map, and why the applicant had claimed that conservative calculations had been done when that was not the case. He stated the impact of these issues was that they called into question the drainage calculations, the efficacy of the erosion and sediment control plan, and the "paucity of proper soil information" for the entire application. 6) Mr. Logan said a minimum of 20 open soil test pits logged by a soil scientist were needed to properly assess the soil characteristics on site. He said this would help with the drafting of the turf management plan and would provide an understanding of what happens around the small disputed wetland area. 7) Mr. Klein had stated there would be ample time to complete the project between June and the fall. However, Mr. Logan disputed this, saying that now that it was known there was a greater amount of fines in the soil, this could spread out the work time. He said the presence of Paxton soils, which are composed of 42.8% silt and clay, was a "game changer." 8) Regarding the erosion and sedimentation controls, Mr. Logan thought the sediment trap that better deals with the fines was an improvement as was the addition of the possible use of floc logs. He warned that an expert would be needed to determine what kind of floc log should be used and to check to make sure they function correctly. He also cautioned that wood chips in the wood chip berm between the two rows of silt fence can float so he recommended that two year compost or double grind wood chips be used.

Mr. Bedini noted the Regular Meeting was scheduled to begin at 7:00 p.m. Mr. Logan said he was not finished with his presentation and Ms. Gadwa would also address the Commission.

The applicant consented in writing to a one week extension of the hearing. At 7:07 p.m. Mr. Bedini continued the public hearing to Wednesday, February 15, 2012 at 5:00 p.m. in the Land Use Meeting Room.

REGULAR MEETING

At 7:17 p.m. Mr. Bedini called the Meeting to order and seated Members Bedini, Bohan, LaMunier, and Wadelton and Mr. Papsin for Mrs. Hill.

Consideration of the Minutes

The 1/25/12 Regular Meeting minutes were accepted as corrected.

Page 1: The meeting time was 7:30, not 7:00 p.m.

Page 2: Line #10 under Herman: The spelling of "statute" was corrected.

Page 4: 15 lines from bottom of page: Change to: "...said with the new system waste would be pumped...."

MOTION: To accept the 1/25/12 Regular Meeting minutes as amended.

By Mr. Wadelton, seconded by Mr. Papsin, and passed 5-0.

MOTION: To accept the 2/3/12 Ingrassia site inspection minutes as written.

By Mr. LaMunier, seconded by Mr. Wadelton, and passed 5-0.

Pending Applications

The Gunnery, Inc/22 South Street/#W-11-40/Athletic Fields:

The public hearing was continued to 5:00 p.m. on 2/15/12 in the Land Use Meeting Room.

Ingrassia/143 East Shore Road/#W-12-01/Demolish, Rebuild Dwelling and Accessory Building, Install Septic System:

Mr. Neff submitted the "Soil Erosion and Sediment Control Plan," revised to 2/7/12, which included more details of the proposed tree cutting to be done at the southwest end of the property and also in a smaller area at the northeast corner where the accessory building will be moved closer to the road. Mr. Neff said a total of 2 dozen trees would be cut, but there was an extensive planting plan for all disturbed areas of the site and for the road shoulder area. He noted there was no reason to cut any of the trees near the lake on both the north and south sides of the property. The septic plans were briefly discussed. Mr. Neff said that 4 ft. of soil above ledge is required by the Health Code and this material would be brought in and deposited on site. Mr. Bedini noted that the seawall is severely undercut. Mr. Neff responded the northwest corner is undercut, but the south end is serviceable. He said an architect and structural engineer are evaluating the wall and if repairs or a replacement is needed, a separate application would be submitted. Atty. Kelly agreed, saying that the current application would have minimal impact on the lake, whereas work on the seawall in the lake would be more difficult. He also said he would review the Regulations regarding the issue of whether a cement seawall may be repaired vs. building a new stone wall. There were no other questions from the commissioners.

MOTION:

To approve Application #W-12-01 submitted by Mrs. Ingrassia to demolish and rebuild the dwelling and accessory building and install a new septic system at 143 East Shore Road per the "Soil Erosion and Sediment Control Plan," by Mr. Neff, dated 10/24/11, revised to 2/7/12; the permit shall be valid for 3 years and is subject to the following conditions:

1. that the Land Use Office be notified at least 48 hours prior to the commencement of work so the WEO can inspect and approve the erosion control measures,
2. that the property owner give the contractor copies of both the motion of approval and approved

plans prior to the commencement of work, and

3. any change to the plans as approved must be submitted immediately to the Commission for reapproval.

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

Johnson/30 West Mountain Road/#IW-12-02/Addition to Dwelling, Terrace:

Mr. Johnson reported that he had submitted all of the required documentation. Mr. Bedini noted that completion of the paperwork had been the only unresolved matter at the last meeting.

MOTION:

To approve Application #IW-12-02 submitted by Mr. Johnson for an addition to the existing dwelling at 30 West Mountain Road in accordance with the "Soil Erosion and Sediment Control Plan," by Mr. Neff, dated 1/20/12; the permit shall be valid for 5 years and is subject to the following conditions:

1. that the Land Use Office shall be notified at least 48 hours prior to the commencement of work so the WEO can inspect and approve the erosion control measures,
2. that the property owner give the contractor copies of both the motion of approval and approved plans prior to the commencement of work, and

By Mr. Waderton, seconded by Mr. Bohan, and passed 5-0.

New Applications

Volpe/ Nettleton Hollow Road/#IW-12- /Pond Maintenance:

Mr. Neff, engineer, presented his plan, "Pond Maintenance Plan," dated 1/2/12. He said the steel standpipe in the outlet of the half acre pond had corroded and needed to be replaced and the outlet pipe was clogged and needed to be cleaned out. The standpipe will be replaced with a concrete catch basin sump and riser at the pond outlet. Mr. Neff said there would be a larger inlet and a trash rack on top to prevent clogging. He explained that pond dredging was not proposed, but that the pond would be dewatered in order to complete the work. Clear water only will be pumped to the other side of the driveway. The work will be done during the dry time of year. Mr. Neff stated that excavators would work from the driveway and there would be no need for equipment in the pond. Several of the commissioners were familiar with the property. Mr. Papsin said he would inspect the pond on his own before the next meeting.

Preliminary Discussion

Berg/22 Foulis Road/Relocate Driveway:

Mr. Baker, engineer, pointed out the location of the existing driveway, pond, and the wetlands flagged by Mr. Temple on the "Existing Conditions Property Survey," by Mr. Alex, dated January 2007. He stated the owners would like to move the driveway to an area that would require filling in wetlands. He suggested the Commission might consider this because there were opportunities on site for mitigation. On his plan, "Preliminary Driveway Relocation Plan," by Civil 1, dated 2/8/12, he indicated the proposed driveway route, the wetland areas that would have to be filled, and mitigation plantings along both sides of the driveway. He also noted the current drainage problems on Foulis Road and said if the driveway entrance was moved the drainage along the Town road would have to be improved with a swale that would drain into the wetlands. Mr. Bedini asked why the existing driveway could not continue to be used. Mr. Baker said the reason for moving the

driveway was aesthetics. A third map, "Preliminary Driveway Relocation Plan, Aerial Overlay," by Civil 1, dated 2/8/12 was reviewed. Mr. Wadelton noted that when a proposed activity is actually in the wetlands, feasible and prudent alternatives must be considered. He did not think aesthetics was a good reason to fill the wetlands. Mr. Baker again pointed out there was an opportunity for mitigation and said some of the wetlands were now lawn. He said 1500 sq. ft. of wetlands would be filled. It was noted that no mitigation other than the plants was proposed. Mr. LaMuniere said it was difficult to justify the filling of the wetlands when there was already a viable driveway location, that the two proposed stretches of wetland plants in exchange for 1500 sq. ft. of fill in wetlands was not acceptable, and he did not think the Commission should set such a precedent. Mr. Bedini noted the wetlands plants could be planted without moving the driveway. He thanked Mr. Baker for coming in to discuss the proposal.

New Application

Morsey/127 Blackville Road/#W-12-04E/Horse Shed and Fence:

The location of the property was noted. The sketch plan showed the proposed shed was 120 ft. from the stonewall along the rear of the property and the proposed fence was 20 to 50 feet from the brook. Mr. Wadelton stated that agricultural activities were a legitimate exemption. He asked if the proposed fence complied with the minimum 50 ft. Zoning setback from wetlands. Mr. Ajello said he would check.

MOTION:

To make a jurisdictional ruling that Application #W-12-04E submitted by Mrs. Morsey for a horse shed and fence at 127 Blackville Road is an as of right activity for an agricultural exemption and a permit is not required.

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

Communications

The latest issue of the CACIWC newsletter was circulated.

Enforcement

Lodsins/78 Litchfield Turnpike:

It is possible that some of the money raised from the foreclosure of this property will pay Mr. Lodsins's outstanding citation. Mr. LaMuniere noted there is a great amount of junk on site and asked if the Town would be responsible for cleaning it up.

Santangelo/77 West Morris Road:

The DEEP contacted the Land Use Office a second time about the dam failure on this property. It was noted the dam had failed years ago and there was no threat to other properties.

Madoff/ West Shore Road:

Mr. Ajello reported that a new driveway had been installed on this property.

Ingrassia/143 East Shore Road:

It was the consensus that the seawall looked to be in bad condition.

Administrative Business

2012-2013 Budget:

Last year's budget figures were reviewed. It was noted the legal litigation fund is used only to pay legal expenses for appeals and enforcement proceedings, whereas payments for routine legal advice are made from the Commission's budget. Mr. Bedini reported that the Selectmen were considering not paying the annual \$575 fee to the Northwest Conservation District because they did not think the Town gets its moneys worth. There was general agreement. Mr. Bedini will continue to work on the budget.

Mr. LaMunier stated how important it was to keep up with the latest legal developments and suggested Atty. Zizka be asked to discuss these with the Commission. Mr. Bedini noted that Atty. Branse had done this for free a few years ago through the Ct. Bar Assoc. and Mr. Waderton noted that CACIWC also provides legal information.

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

Mr. Bedini adjourned the Meeting at 8:42 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,
Janet M. Hill
Land Use Administrator