

**May 26, 2004**

**SHOW CAUSE HEARING**

Re: Fowler, IW-04-V5, 138 Nichols Hill Road, excavation in wetlands & watercourse.

**Members Present:** Dorothy Hill, Helen Gray, Charles La Muniere, Marguerite Purnell, and Mark Picton at 6:47 p.m.

**Alternates Present:** Candace Korzenko.

**Alternates Absent:** Anthony Bedini.

**Staff Present:** Michael Ajello, Katherine Moquin.

**Also Present:** Carl Fowler, Atty. James Kelly.

**Opened** the meeting at 6:45 p.m., Chairman Hill presiding.

**Seated** members present - Mrs. Hill, Mrs. Gray, Mr. LaMuniere, Ms. Purnell, and alternate Mrs. Korzenko for Mr. Picton. Mr. Picton seated at 6:47 p.m.

Carl Fowler and Atty. James Kelly were present. Atty. Kelly presented a history of the activities which have taken place and reasons for pursuing these activities, mainly that even the house, having been built before regulations, is located in wetlands soils and the basement has been flooding, requiring drainage work which needs to continue. Carl Fowler was unaware of his responsibility to apply for an Inland Wetlands permit and is now ready to cooperate. Mr. Picton said that they are not judging intentions but they are judging the impacts to wetlands. Mrs. Hill pointed out that the purpose of this hearing is to give Mr. Fowler a chance to show cause why the Enforcement Order should not remain in effect.

**CLOSED** the Hearing at 7:05 p.m. Motion by Mrs. Gray and passed 5-0.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Katherine Moquin

June 4, 2004

**REGULAR MEETING**

**Members Present:** Dorothy Hill, Helen Gray, Charles La Muniere, Mark Picton, and Marguerite Purnell.

**Alternates Present:** Candace Korzenko.

**Alternates Absent:** Anthony Bedini.

**Staff Present:** Michael Ajello, Katherine Moquin.

**Also Present:** Joseph Wanag, Ronald Wolff, Donna Parent, Michael Parent, Natalie Dyer, Susan Branson, William Ross, Mark Devlin, and Lawrence O'Toole.

**Opened** the meeting at 7:10 p.m., Chairman Hill presiding.

**Seated** members present -Dorothy Hill, Helen Gray, Charles LaMuniere, Mark Picton, and Marguerite Purnell.

**ADDED** to the Agenda a) Regular Meeting Minutes of April 28, 2004 to Consideration of Minutes. b) Executive Session to Other Business. Motion by Ms. Purnell, second by Mr. Picton and passed 5-0.

**Accepted**, as amended, Regular Meeting Minutes of April 28, 2004. Motion by Mr. Picton, second by

Ms. Purnell and passed 5-0.

Corrections as follows:

Page 2 - under Accepted Site Inspection Minutes re **Knudsen** - line 3 - add 'and has recused herself from discussion on this application ' after 'inspection'

under **DiBenedetto** - line 6 - add ' and timing of planting' after 'used'

Page 3 - under **Ingrassia** - line 1-5 should be 'Ms. Purnell voted nay as she is the only member who was on the Commission when past

activities were permitted. The path along the back of

the barn was originally permitted as a temporary

roadway to provide construction access, the armoring

was to be removed and the area allowed to re-vegetate.

line 7 - add 'dated 4-23-04' after 'plan' and '2)' s/b 'The re-

naturalized buffer starting at twenty feet north of the

24 inch RCP as shown'

line 9 - delete 'a' before 'sheet'

Page3 - under **Montessori School** -line 11 - 're-vegetate' s/b ' naturalize'

- numbers '1) to 5)' s/b '1) to 6)'

Page 4 - under Mrs. Hill recused herself - 'because at a previous meeting, she told Eric

Nelson that she is not in favor of this proposal' s/b ' from

the following discussion' and add ' and seated Mr. Bedini in her place' after 'chair'

under **Knudsen** - line 6 - delete 'Charles La Muniere' and 'are' s/b 'is'

corrections April 28, 2004 minutes con't:

Page 4 - under Mr. Picton unseated - delete 'Mr. Picton unseated Mr. Bedini and' and add 'her seat and' after 'resumed'

Page 5 - under **Gatto** - last line - delete 'and the Commission needs to do its job properly'

Page 6 - under **Levy/Kady** - line 2 / 3 - delete 'behind the stone wall' and add 'recently

before 'evergreens'

under 137 Upper Church Hill Road - add '**Devlin/Tsang**' before '137'

**Accepted**, as amended, Regular Meeting Minutes of May 12, 2004. Motion by Mrs. Gray, second by Ms. Purnell and passed 4-0-1. Mr. LaMuniere abstained as he did not attend this meeting. Corrections as follows:

Page 1 - under Alternates Absent - delete 'Robert Weber'

under **Guliano** - line 4 - 'up hillside' s/b 'uphill side' and add 'of the swale' after 'side'

line 12 - 'drain' s/b 'swale'

Page 2 - under Seated - spelling of 'Gray'

under Motion - line 4 - add 'Form' after 'Application'

Page 3 - under **DiBenedetto** - line 3 - add 'to access compliance with the previous permit' after 'needed'

under **Washington Parks & Rec.** - line 4 - spelling of 'Worcester'

line 8 - add 'site' after 'well'

Page 4 - line 2 - add 'No regulated activities are proposed in the current Beck re-subdivision plan'

under **Rudin** - line 3 - add 'south side of the ' before 'property'

under **Meeker** - last line - add 'WEO Ajello will inform Mr. Meeker of the Commission's requirements'

Page 5 - under **Hopkins** - last line - add 'of May 5, 2004' after 'letter'

under **Steep Rock Association** - line 3 - 'a' s/b 'section of'

line 4 - 'would' s/b 'will'

line 5 - 'set' s/b 'sit'

under **Parent** - line 4 - capitalize 'notice of violation'

under **Corax Corp.** - last line - commas after 'gutters' and 'management' and delete 'and storm' and add 'and possible mitigation for increased impervious lot coverage' after 'management'

under **Rudin** - line 2 - add 'The entry site will be a 30 x 12 foot gravel tracking pad' after 'record'

Page 6 - 1st paragraph - line 9 - 'to' s/b 'near'

Page 7 - under **Fowler** - last line - add 'Mr. Ajello, as Wetlands Citation Officer, will also issue a citation to Mr. Fowler.'

under Motion - spelling of 'Gray'

**Accepted**, as written, Site Inspection Minutes of May 18, 2004 re: DiBenedetto, IW-04-03. Motion by Mrs. Hill, second by Ms. Purnell and passed 5-0.

**DENIED DiBenedetto, IW-04-03, 212/214 Calhoun Street, remove invasives, vines, dead trees/prune**, because the pilot project, permit IW-03-04, has not yet been shown to be successful; an evaluation might require another growing season. Motion by Mr. Picton, second by Mrs. Gray and passed 5-0.

Mrs. Korzenko submitted photos (seven on two composite sheets) taken on the 5-18-04 site inspection where members observed the area restored under the current permit, IW-03-04, to be lawn with invasives growing. They agreed that if the invasives cannot be controlled without turning a wooded wetlands into lawn, then the woodland should be left alone; furthermore, grass was not part of the planting plan and more growing time is needed for a better analysis. Ms. Purnell offered to put in writing some guidance for continuing work and planting in the area under permit IW-03-04.

**Discussed Meeker, IW-04-19, 269 New Milford Tpke., expand driveway & gravel.** WEO Ajello

said that chemicals and all storage have been removed from the back yard and vehicles are using the proposed parking area. Members requested a map to show the distances to the river from the parking area and proposed fence and a new site plan which includes the items requested at their last meeting on 5-12-04.

**Discussed Hopkins (Morse Estate), IW-04-21, 313 Nettleton Hollow Road, construct driveway,** with agent, Joseph Wanag and Ronald Wolff, PE. Members noted and agreed with the report of May 25, 2004 from Robert B. Oley, PE, Land-Tech Consultants, which stated that Ronald Wolff, PE, adequately addressed those concerns stated in their May 3, 2004 commentary. Members complimented Mr. Wolff for doing excellent work. The revised plans, "Driveway Plan, Joseph Wanag, Site Development Plan, Grading, sedimentation and erosion control plan, 313 Nettleton Hollow Road by Ronald Wolff, PE., dated 3-4-04, revised 5-20-04" were reviewed in detail and members decided that very careful planning for some wetlands issues, not engineering issues, needed to be done; this property with its 15% grade (for the most part) and the 1400 foot proposed driveway and this great length of exposed ground during construction would be vulnerable to heavy rain, which should not be unexpected and could possibly cause a disastrous amount of silt and hot water to rush into Sprain Brook; furthermore, there are important long term wetlands issues that also need to be considered. Members requested the following: 1) A much more detailed driveway construction sequence depicted on the above cited plan, including the phasing / staging of driveway work into three sections - one section to be done at a time and each section to be completely stabilized before starting work on the next section - including drainage controls and a gravel layer but not necessarily paving. 2) More effective temporary sediment and erosion control measures; erosion control mats are more effective than hay bales. 3) More effective and larger sediment and erosion control measures in the swale water flow line. 4) Bonding for construction work and/or for restoration of the brook if degradation of Sprain Brook occurs - if silt descends into the brook in very large quantities. 5) Identify the limit of disturbance not specified.- how much ground would be bared at any one time: a) Amount of temporary disturbance before stabilization. b) Permanent limit of clearing - where site changes are proposed and which areas will remain intact and undisturbed.

**Discussed Parent, IW-04-23 ATF, 71 Calhoun Hill Road, clear house & driveway site, install stone,** with Donna and Michael Parent, who are in the process of consulting Brian Neff, PE., re the survey and bridge wing walls; The soil science report is not yet complete; All activity is on hold per WEO Ajello's directive and they will submit a fee for this after the fact application. Members asked WEO Ajello to issue a citation.

**Discussed Corax Corp., IW-04-24, 248 West Shore Road, house renovations / install generator.** WEO Ajello said that the ditch to the generator is already filled in and the location of the generator is subject to Zoning and ZBA issues. Members asked for more detailed information re what was done and where the generator will be permanently located; members will not vote pending further changes.

**APPROVED Rudin, IW-04-25, 328 Nettleton Hollow Road, entry site,** as submitted and per the description received on 5-11-04. Motion by Ms. Purnell, second by Mrs. Gray and passed 5-0. Members agreed that adding additional stone at the entry site will decrease the amount of sediment entering the wetlands. Ms. Purnell does not think this involves any impact to the wetlands.

**APPROVED Steep Rock Association, IW-04-26, Steep Rock/Hidden Valley/Macricostas Preserve, four info boards,** as submitted and per: a) The letter dated 5-10-04. b) The description and Management Plans for Hidden Valley Parking Area received on 5-25-04. Motion by Mr. Picton, second by Mrs. Gray and passed 5-0. Susan Branson, Executive Director, and Natalie Dyer, Board Member, described their methods -weed wrenching, hand digging, cutting, hand pulling, and smothering for removing invasives; the work will take place over a three year period with the 130 x 30 foot area divided into four sections; no mowing or weed whacking will be done. Ms. Purnell thinks there is

minimal impact involved because both the installation of the info board posts and the removal invasives will be done using only hand work.

**Discussed Obbard/Zeller, IW-04-27 E, 148 Whittlesey Road, construct dwelling.** WEO Ajello walked the property last year and members reviewed the map, "Proposed Plot Plan, Obbard & Zeller Residence, 148A Whittlesey Road by Brian E. Neff, PE., dated 4-30-04." noting that all activity is proposed not closer than 200 feet from the Shepaug River and all of the existing logging road / driveway is not closer than 150 feet from the river. Members requested the limit of clearing, the limit of ground disturbance, and any water shed clearing be depicted on the above cited map. WEO Ajello will make another site visit.

**Discussed Ross, IW-02-V4, 10 Sunny Ridge Road, wetlands restoration,** with William Ross, who proposed moving a section of the existing wood road to accommodate the remaining restoration; this would involve removing three or four small trees farther from the wetlands - a second row of trees so that the first row of trees, facing the sun and with low lying branches, could remain. The new section of wood road would run along the back side of the first row of trees. Members reviewed the as-built and approved plan, "Site Plan - Wetlands Restoration, Ross Residence, 10 Sunny Ridge Road by Curtiss B. Smith, LS., PE., dated 5-2-03, revised 5-28-03." Members requested an application and a statement that the wood road is not going to be located as shown on the restoration plan.

**Discussed Devlin/Tsang, IW-04-V6, 137 Upper Church Hill Road, excavation, clearing, deposition in wetlands,** with Mark Devlin, who submitted three maps, Site Plan, Tsang Residence, 137 Upper Church Hill Road by Mark A. Devlin, Architect, dated 5-20-04," "Wetlands Remediation Plan, Tsang Residence, 137 Upper Church Hill Road, by Mark A. Devlin, Architect, dated 5-26-04," and "Site Plan, Tsang Residence, 137 Upper Church Hill Road by Mark A. Devlin, dated 5-26-04" and eight photos of the cleared areas; the wetlands are flagged in the cleared areas but not beyond. In place of the multi-flora rose which he removed, he would like to plant blueberry bushes

The Commission will make a **Site Inspection** on Wednesday, June 2, 2004 at 6:00 p.m.

**Heard, in re: Beck, IW-02-V1, 132 Calhoun Street, cutting & clearing in wetlands,** from WEO Ajello that no work has been done to remove invasives and stumps have been removed all the way down the hill in the area which was harvested / 60 pines were planted - WEO Ajello directed Mr. Beck to mulch the area to prevent erosion. Members agreed that the stumping of the hillside puts this area within their jurisdiction.

Mr. Beck has not complied with the Commission's written directives of September 30, 2002, January 15, 2003, and August 8, 2003 to remove invasives from the cleared wetlands; WEO Ajello has also contacted Mr. Beck in person many times re the removal of invasive species from the wetlands, where clearing gave invasives a chance to flourish. Members asked WEO Ajello to issue a citation and a warning that the Commission will go to court if he does not comply; a copy will be sent to Atty. Michael Zizka.

**Discussed O'Toole, 46 Kielwasser Road, septic repair, install septic system, repair stone wall,** with Lawrence O'Toole, who did not understand that streams were included in wetlands regulations; rocks from a septic repair were piled 10-20 feet from the side of a stream in preparation for repairing a stone wall. A new septic system has been installed. Members requested an after the fact application for the septic system, septic repair, stone wall repair and plans for re-vegetation and to include good descriptions, distances, quantities of material, and a designed buffer area. WEO Ajello said that he cannot discern any impact to the stream.

The Commission will make a **Site Inspection** on Wednesday, June 2, 2004 at 6:30 p.m.

**Heard, in re: Fish, IW-04-V2, 201 Wykeham Road, timber harvest near wetlands, permit**

**violation**, from WEO Ajello that Mr. Fish has submitted a sample sign, which reads - Forest Preservation Area No Vegetation Cutting and a proposal to post the signs every 100 feet. Members agreed to accept the sign design with a request that the signs be made of durable material such as plastic or metal and be posted every 50 feet.

**Heard**, in re: **Guliano, IW-04-01, 19 Winston Drive, WEO approval violation**, that Mr. Guliano has not replied to his letter of May 17, 2004, stating the Enforcement Order is to remain in effect.

**Heard**, in re: **Adams, IW-04-V4, 136 West Shore Road, excavation & deposition in wetlands**, from WEO Ajello that no new information has been submitted.

**VOTED to Have the Enforcement Order Remain In Effect** re: **Fowler, IW-04-V4, 138 Nichols Hill Road, excavation in wetlands & watercourse**, until the situation is resolved. Motion by Ms. Purnell, second by Mr. Picton and passed 5-0. WEO Ajello said that work had been done this Spring, 2004, unlike the statement made by Atty. James Fowler at the Show Cause Hearing tonight. Members requested an engineered plan for restoration, a site plan and survey, and a wetlands delineation.

**Decided**, in re: **Auchincloss, IW-03-57, 5 Kielwasser Road, permit violation**, that this permit will be taken off the agenda because WEO Ajello will hear from agent, Bruce Bennett before work resumes.

**Heard**, in re: **Levy/Kady, IW-03-V6, 129 Wykeham Road, deposition in & near wetlands**, from WEO Ajello that the restoration was completed on May 13, 2004; buried stumps were discovered. Ms. Purnell re-submitted five photos taken in the summer of 2001 which were missing from the file, IW-97-VO4.

**Decided**, in re: **Randall, IW-03-V12, 53 River Road, disturbing wetlands soils / mowing in wetlands soils**, to take this violation off the agenda until the Conservation Easement is submitted.

**Heard**, in re: **Bailey, IW-04-V7, 93 old Litchfield Road, destruction of wetlands by 'quads'**, from WEO Ajello that Mrs. Bailey submitted a letter, received 5-26-04, offering her full co-operation. As well as loss of vegetation and deep rutting in the wetlands, Mallory Brook sustained one or two spots of bank erosion; some trees were cut.

The Commission will make a **Site Inspection** on Wednesday, June 2, 2004 at 5:30 p.m.

**Discussed**, briefly, the Application Procedure Form. Mr. Picton suggested an 8 1/2 x 11 inch page which he thinks is easier to use than the brochure format. Members will put suggestions in writing and be prepared to finalize approval at the next meeting on June 9, 2004.

**ADJOURNED** the Meeting at 11:13 p.m. Motion by Mrs. Gray and passed 5-0.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Katherine Moquin, Land Use Secretary June 4, 2004