

## February 23, 2011

7:00 p.m. Land Use Meeting Room

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

**MEMBERS ABSENT:** Mr. Bohan, Mr. Wadelton

**ALTERNATES PRESENT:** Ms. Cheney, Mr. Martino, Mr. Papsin

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

**ALSO PRESENT:** Mr./Mrs. Klein, Mr. Neff, Mr. Dirienzo, Mr./Mrs. Frank, Mr. Wellings, Ms. Baldwin, Mrs. Weeks, Mr. Sabin, Residents

Mr. Bedini called the Meeting to order at 7:03 p.m. and seated Members Bedini, Hill, and LaMuniere and Alternates Martino and Papsin for Mr. Bohan and Mr. Wadelton. He noted there was no subsequent business to add to the agenda.

### Consideration of the Minutes

**MOTION:**

To accept the 2/9/2011 Regular Meeting minutes as written.

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

### Pending Application

Klein/271 West Shore Road and 236 Tinker Hill Road/#IW-11-03/ Construct Driveway

Mr. Neff, engineer, and Mr. Dirienzo, environmental consultant, represented the applicant. The plans, "Driveway Entrance Plan," by Mr. Neff, revised to 1/5/11 were reviewed. Mr. Neff noted he had also submitted driveway construction plans, erosion and sedimentation control plans, and an alternate driveway plan showing the three options for access to the property.

Mr. Neff and Mr. Dirienzo reviewed the presentation made at the last meeting.

Mr. Neff stated the preferred driveway access was from West Shore Road for several reasons; 1) it was the shortest, 500 feet compared with 1500 from Tinker Hill Road and 1800 from Ash Swamp Road, 2) it would require no clearing, and 3) it would require less regrading and less cuts and fills. He noted the driveway crossing was proposed at the narrowest section of a quarter acre wetland area and said this wetland was not connected to any other wetland by watercourses or surface flow. He explained the proposed drainage system included catch basins, a swale, and a rain garden and would tie into the existing system on West Shore Road. He estimated that one tenth of an acre of wetlands would be disturbed by the driveway construction.

Mr. Dirienzo explained that the wetlands were formed because the hillside runoff can not flow through the glacial til and so surfaces at various break out areas. This wet area functions as a wet meadow. He said he had 23 years experience as an environmental consultant and that the proposed driveway would not impact the wetland or its function of enhancing the quality of the water flowing off the field.

The three driveway options were reviewed again. Mr. Neff pointed out that the Ash Road driveway would be the longest, would require the most drainage, and would be closest to Ash Swamp. He noted the driveway off Tinker Hill Road, which had previously been approved, would require both extensive clearing and cuts and fills due to the steep grade in this area. Mr. LaMuniere asked if the West Shore Road driveway would have less impact on the property and on the wetlands. Mr. Neff stated it would have less impact.

Mrs. Hill asked if there was a clean out schedule for the sump. Mr. Neff said that yearly inspection and maintenance could be made a condition of approval.

Mr. Bedini read three letters: 1) from Mrs. Weeks, dated 2/21/11 in which she expressed concerns and objections about potential runoff into the lake and disruption of the underground flow of water onto her property and in which she said that development of the property was proposed because an agricultural use would not require a driveway, 2) from Mr. Frank, president of the Lake Waramaug Association, dated 2/23/11 in which he expressed his concern about the potential development of the last major undeveloped parcel on the lake and requested a public hearing, and 3) from Mr. Wilson, engineer on behalf of Mrs. Weeks, dated 2/22/11 in which he noted his concern about potential impacts on the Weeks property, questioned why 2 ft. contours had not been provided, asked if the cuts into the steep slopes in the wetland area had been discussed, and noted the lake must be protected from sedimentation.

Mr. Bedini stated a petition requesting a public hearing had been signed by 25 residents. A hearing was scheduled for March 23, 2011.

It was noted that a site inspection of both the proposed driveway site and the two alternate sites should be conducted prior to the start of the hearing, but it was not scheduled at this time due to the existing snow cover.

Mr. Ajello noted that Mr. Wilson had asked for two foot contours. Mr. Neff said these would be provided.

The Commission decided to hire Land Tech as its consultant. Land Tech's review will include the issues of drainage and sedimentation and the potential impact to Lake Waramaug.

Mr. Dirienzo clarified that although the immediate use of the property will be for agriculture, the owner was not applying for an agricultural exemption because she did not want the future use of the property restricted. He noted his client valued the property and was not proposing an unreasonable use. He said in his expert opinion the West Shore Road driveway was the most feasible and prudent alternative because it would have the least impact.

### **Other Business**

#### Herrmann/90 East Street/Request for an Extension of Permit #IW-09-15/Single Family Dwelling, Driveway, Well, Septic System

It was noted that the Commission had previously inspected the property and the plans had not changed since the application had been approved. Mr. LaMuniere said the Commission had spent a lot of time reviewing the original application due to the proposed earth work. Mr. Ajello noted the wetlands were located above the construction site so there would be little chance they would be impacted.

#### **MOTION:**

To approve the request to extend Permit #IW-09-15 issued to Mr. Herrmann for a single family dwelling, driveway, well, and septic system at 90 East Street for two years.

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

### **Enforcement**

#### Rosen/304 Nettleton Hollow Road/Unauthorized Stream Work and Clearing/#IW-08-V2 and #IW-10-V03:

Mr. Sabin, landscape architect, paid the two Rosen fines. Mr. Sabin presented his plan, "Preliminary Concept: Wetland Corridor and Buffer Restoration for: Stonebrook Estate, Stonebrook, LLC.," dated 2/15/11, which detailed the six elements of his preliminary design. 1) The invasives along the driveway and Sprain Brook would be removed and native plants planted between the stream and the road. 2) The

edge of the maintained lawn would be delineated and the remainder of the area between the brook and the driveway would be restored to an upland wetland meadow. Mr. Charles asked how far the existing lawn extends and pointed out that Mr. Rosen had filled along the stream. 3) The lowest 160 feet of the "canal" would be dismantled and reconfigured to create a more natural, less channelized stream and spread out the flow in the area between Sprain Brook and the driveway. This would include the installation of check dams. Mr. LaMuniere asked if the work on the channel would make it less like a canal and less severe. Mr. Sabin said it would, but added he would try to minimize the area of disturbance by retaining the section of the "canal" closest to the driveway. Mr. LaMuniere thought the restoration work should be extended closer to the driveway. When asked how the work would be done, Mr. Sabin stated it would be done by hand and with a small track excavator. The fill that had been placed directly in the wetlands along both sides of the lower section of the "canal" and invasives in the same area would be removed. Native riparian vegetation would be planted in these disturbed areas. 4) Mr. Rosen will apply for a variance for the unauthorized guard house and for an Inland Wetlands permit. 5) The board across the culvert would be removed and replaced with a stone weir in a manner that does not reduce the hydraulic capacity of the culvert. 6) Along the channelized section of stream above the driveway the invasives would be removed and the banks replanted with native wetland species.

The need for yearly maintenance and cleaning of the plunge pool was briefly discussed. Mr. Ajello also thought that cleaning out "the point by the bridge" would be a good idea.

Mr. LaMuniere asked what mitigation would be done to compensate for the illegal work. Mr. Sabin responded that the native plantings would provide shade for the watercourse, forage for birds, and a more natural setting.

Mr. Sabin said he would provide detailed plans if the Commission agreed with the concept. He said he hoped to get the planting done at the end of April.

Mr. LaMuniere and Mr. Papsin said in the area below the driveway, more of the canal had to be removed to bring the natural stream further up the hill and closer to the driveway than what was now being proposed. Mr. Sabin agreed, but said that the canal above the driveway was stable even in significant storm events so he did not want to disturb this area in any way except to reintroduce vegetation along the banks. Mr. LaMuniere agreed that the upper section of canal had survived two seasons without any erosion, but stressed again that in the lower section the natural stream had to be restored to a point closer to the driveway.

Mr. Ajello pointed out another area where an intermittent stream had been filled. Mr. Sabin said he would look into this and perhaps reintroduce it as long as it would not interfere with mowing. Mr. LaMuniere noted that the filling of this area had progressed after Mr. Rosen had been ordered to stop work and said the function of the wet meadow to disperse water should be restored to the extent possible.

It was the consensus an application to correct a violation should be submitted. The commissioners did not make a determination about whether a separate application should be submitted for the guard house.

## **Enforcement**

### Brose/213 Roxbury Road:

Restoration work will resume in the spring.

### Chatfield-Schellerer/19 Tinker Hill Road:

A notice of violation has been filed on the Land Records. Mrs. Hill asked if the second fine had been

sent and referred to the 12/8/10 minutes where it stated the Commission had ordered a second fine for failure to respond. Ms. Cheney thought the Commission should be consistent in issuing fines to people who do not follow through. Mr. Ajello said he would pressure the property owners to comply with the order to submit either a site development plan or a restoration plan and would threaten a second fine if they do not respond.

Cruse/33 East Shore Road:

Mr. Ajello said he had sent the new owner a letter to notify him that there was a notice of violation filed on the Land Records, but had no response. He will send a second letter. He said he was not concerned about potential erosion because the vegetation on site had regrown.

DePecol/269 Nettleton Hollow Road:

Mr. DePecol has not yet notified the Land Use Office about when work will commence.

Howard/99 West Shore Road:

Mr. Howard completed the required restoration work, although he did not notify the Commission he had done so.

Klein/236 Tinker Hill Road and 271 West Shore Road:

Mr. Bedini asked whether the Commission should hire an attorney to attend the public hearing. It was the consensus to 1) wait until after the first session of the hearing to see if this was necessary and 2) to hire an attorney if there is an intervener.

Rosen/304 Nettleton Hollow Road:

It was hoped a substantial restoration plan would prevent this matter from ending up in court. Mr. LaMuniere noted the Commission had previously asked for flow calculations in order to help determine the impact of the stone veneer placed on the wing walls and bridge.

Smith/23 East Shore Road:

Mrs. Smith has applied for a variance for the shed approved by the IWC at its last meeting. Locations for the shed are limited due to setback requirements from wetlands and watercourses and boundary lines.

West Shore Farm, LLC./285 West Shore Road:

The fine for unauthorized clearing was paid.

Schein/245 West Shore Road:

Mrs. Hill noted this matter had been unresolved for several years. Mr. Ajello said the required hillside planting had never been completed and he would contact Mrs. Schein again in the spring.

**Administrative Business**

Shoreline Protection Policies:

Mr. LaMuniere had sent out copies of the latest draft prior to the Meeting. He asked for comments so that he could revise the language accordingly and refer the document to Atty. Zizka for comments. He noted that Atty. Zizka's input was needed regarding whether a revision to the Regulations or a Town ordinance would be more effective. He also noted that he wanted Mr. Waderton to participate in the discussion and so recommended it be tabled to a future meeting. It was noted the Conservation Commission had asked for a copy of the draft and Mr. LaMuniere was asked if the subcommittee had referred it to Zoning and the Lake Waramaug Assoc. Mr. LaMuniere said the subcommittee had planned to do so after the IWC had agreed upon a final draft. After a brief discussion, it was the consensus that the Commission should not wait to refer the latest draft to the Board of Selectmen and other land use commissions. Mrs. J. Hill will send out the referrals as soon as possible with an early

April response date.

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

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

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill

Land Use Administrator