

May 11, 2011

Public Hearing – Show Cause Hearing – Regular Meeting
5:00 p.m. Land Use Meeting Room

PUBLIC HEARING

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

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

ALTERNATE PRESENT: Mr. Papsin

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

Mr. Bedini called the continuation of the public hearing to order at 5:04 p.m. and seated Members Bedini, Hill, and Wadelton and Alternate Papsin for Mr. LaMuniere.

Mr. Wadelton read the 5/6/11 letter of withdrawal from Mrs. Klein to the Commission.

MOTION:

To close the public hearing to consider Application #IW-11-03 submitted by Mrs. Klein to construct a driveway at 271 West Shore Road/236 Tinker Hill Road.

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

Mr. Bedini closed the hearing at 5:07 p.m.

SHOW CAUSE HEARING

Hochberg/15 Couch Road/Unauthorized Excavation of Pond and Disposal of Excavated Material into Watercourse

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

ALTERNATE PRESENT: Mr. Papsin

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

Mr. Bedini called the show cause hearing to order at 5:16 p.m. and seated Members Bedini, Hill, and Wadelton and Alternate Papsin for Mr. LaMuniere. He noted the purpose of the hearing was to give Mr. Hochberg the opportunity to show why the 5/2/11 cease and desist order for unauthorized excavation of his pond and deposition of the excavated material into the watercourse should not stand.

Mrs. J. Hill recounted her 5/9/11 conversation with Mr. Hochberg during which he stated that his workers had not deposited the excavated material directly into the stream, but had placed it in the outlet pipe where it had then “naturally” flowed into the stream. She said that he also stated that he had not received notice of the hearing and would not be available until June 8, 2011 and so asked that it be continued until that date.

Mr. Ajello noted a notice of violation and citation had been mailed to Mr. Hochberg at the same time. He then reviewed the specifics of the 5/2/11 cease and desist order. He reported that Mr. Hochberg had contacted Mr. Szymanski, engineer, who had no time to prepare a response for tonight’s hearing.

Mr. Ajello read Mr. Hochberg’s 5/9/11 email that asked that the hearing be continued. There was a brief discussion regarding whether to continue it or not. Mrs. Hill noted the order would remain in effect if the hearing was continued. It was the consensus the hearing would be continued to give Mr. Hochberg the opportunity to respond.

MOTION:

To continue the Show Cause Hearing for the 5/2/11 cease and desist order issued to Mr. Hochberg for unauthorized dredging of his pond at 15 Couch Road to June 8, 2011 at 6:30 p.m. in the Land Use Meeting Room, Bryan Memorial Town Hall.

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

At 5:30 p.m. Mr. Bedini continued the show cause hearing to 6:30 p.m. on June 8, 2011 in the Land Use Meeting Room.

REGULAR MEETING

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

MEMBERS ABSENT: Mr. Bohan, Mr. LaMuniere

ALTERNATES PRESENT: Ms. Cheney, Mr. Papsin

ALTERNATE ABSENT: Mr. Martino

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

ALSO PRESENT: Mr. Neff, Mr. Quinn, Mr. Canal, Mr. Talbot, Mr. Sabin, Mr. Wilson, Mr. Gambino

Mr. Bedini called the meeting to order at 7:00 p.m. and seated Members Bedini, Hill, and Wadelton and seated Alternates Papsin for Mr. LaMuniere and Cheney for Mr. Bohan.

Consideration of the Minutes

The 4/27/11 Regular Meeting minutes were accepted as corrected.

Page 4: The heading should say, "West Shore Farm, LLC." not West Shore Road.

MOTION:

To accept the 4/27/11 Regular Meeting minutes as corrected.

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

The 5/10/11 West Shore Farm, LLC. site inspection minutes were accepted as amended.

First paragraph: last line: The correct spelling is "existing."

MOTION:

To accept the 5/10/11 West Shore Farm, LLC. site inspection minutes as amended. By Mrs. Hill, seconded

by Mr. Bedini, and passed 5-0.

Pending Applications

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

Mr. Bedini noted the application had been withdrawn.

The order of the agenda was altered to accommodate those present.

New Applications

Geurts/117 East Shore Road/#IW-11-10/Demolition, Reconstruction of Retaining Walls, Install Bulkhead for Dock, Extend Parking Area, Rebuild Stairs, Etc.:

It was noted that most of the proposed work was not on the Geurts property, but in the state right of way. Mr. Ajello said that Mr. Szymanski, engineer, had reported that the DOT OK'd the plans, but there was nothing in writing. Mr. Ajello thought approval from the state DEP should also be obtained. The map, "Proposed Site Development Plan," by Arthur H. Howland and Assoc., dated 11/30/2009 was reviewed. Several commissioners were not comfortable approving an application, which encroached on the state right of way, noting too, that the applicant proposed to demolish and move back a retaining

wall towards the highway. Mr. Wadelton noted the retaining wall work could impact the stability of the road. It was the consensus to require the applicant to resubmit the application for only the work proposed on his own property. A site inspection will not be scheduled until the revised application is submitted.

Pending Applications

Doherty/212-214 Calhoun Street/#IW-11-07/Guest House, Pool, Utility Shed:

Mr. Talbot, architect, Mr. Sabin, landscape architect, and Mr. Neff, engineer, were present. The plan, "Guest House and Pool House Septic System," by Mr. Neff, revised to 5/9/11 was reviewed. Mr. Neff stated the revisions were based on the discussion at the last meeting and included rerouting of the drainage pipe and inclusion of notes both on the map and in the construction sequence regarding restacking the stonewall and references to Mr. Sabin's planting plan. Mr. Neff noted the 4" PVC pipe that would discharge to the spreader before the wall would only handle the floor drains in the utility building. The other pipe, which would pick up the courtyard drainage, would flow towards the designated wetland planting area. Regarding the planting area, Mr. Sabin explained the pipe would discharge to 35 feet of undisturbed lawn and then beyond that point the sod would be removed and the area seeded with northeast wetland mix and planted with other native wetland plants; both shrubs and wetland flowers. He stated that 70% of the lawn would be restored to more native wetlands conditions. Mr. Neff submitted erosion control plans revised to 5/10/11. Mr. Ajello asked if the pool equipment had been relocated. Mr. Neff said it was located in the utility shed beyond the 50 ft. wetlands setback required for Zoning.

MOTION:

To approve Application #IW-11-07 submitted by Mr. Doherty to construct a guest house, pool, and utility shed at 212-214 Calhoun Street per the plans by Mr. Neff, "Guest House and Pool House Septic System," revised to 5/9/11, the plan, "Soil Erosion and Sediment Control Plan," by Mr. Neff, revised to 5/10/11, and the letter from Mr. Sabin to the Commission dated 5/11/11; this permit is valid for two years; approval 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. Wadelton, seconded by Mr. Papsin, and passed 5-0.

West Shore Farm, LLC./285 West Shore Road/#IW-11-09/Replace Dock Anchor Pier:

Mr. Papsin recused himself.

Mr. Wilson, engineer, presented his untitled drawing, dated 5/11/11, that referenced the porch and the corner post. He noted the steps would begin 8 ft. back from the front of the building's porch and would be 15 inches away from and parallel to the side of the building. He also noted that a gate was proposed and added it to the 5/11/11 sketch. He said the gate would not be higher than 2 ft. above the center line of the road. Mr. Bedini asked if a railing was proposed. Mr. Wilson said, no, that due to rocks in the area, there was not much of a drop off.

MOTION:

To approve Application #IW-11-09 submitted by West Shore Farm, LLC. to replace the dock anchor pier at 285 West Shore Road per the drawings, "Dock Pier," by Mr. Wilson, dated 4/26/11 and an additional sheet signed by Mr. Wilson dated 5/11/11 submitted at the meeting; this permit is valid for two years; approval 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. Wadelton, seconded by Ms. Cheney, and passed 4-0.

Mr. Papsin was reseated.

New Applications

Erhardt/57 West Shore Road/#IW-11-11/Repaie, Reconstruct Retaining Walls, Install Stone Patio and Stormwater Management Improvements:

The plan, "Site Development Plan, by Arthur H. Howland and Assoc., dated 5/4/11 was reviewed. Mr. Ajello noted there would be limited work done in the state right of way. The proposed activities included installation of a new catch basin, drainage pipe, and planted water basin on the south side of the property, and installation of a mortared bluestone patio on a 5 inch concrete slab. Mr. Bedini noted the patio would be impervious and asked for an alternate plan. Mr. Ajello said he had already suggested that the applicant install tightly fitted native stone that would slope down to the water and allow the wave action to dissipate. It was the consensus to wait to see if the plans would be revised before scheduling a site inspection. It was noted in this case the state has a right of way over the Erhardt property.

18 Titus Road, LLC./18 Titus Road/#IW-11-12/Riverbank Stabilization:

Ms. Cheney recused herself.

Mr. Quinn, agent, presented the plan, "Streambank Stabilization," by Studio49, revised to 5/6/11. He proposed to stabilize approximately 180 ft. of the Shepaug riverbank using large boulders and 6" – 8" rip rap and make it look natural like the opposite side of the river. The existing grade would not be altered. The boulders would be put in place with an excavator operating from the top of the bank. At the top of the slope he proposed a small vegetated buffer varying from 4 to 5 ft. in width. Mr. Quinn also proposed to repair the top of the existing retaining wall. He noted there was various debris on the bank, but said it would not be dug out. Any junk sticking up would be cut off and carted away and the rest would be left in place. He estimated that 20 tons of material, mostly concrete, would be taken off the property. Mr. Ajello asked if either the root structure or canopy would be recreated. Mr. Quinn said ornamental shrubs and trees would be planted and they would not shade the river. A site inspection was scheduled for Tuesday, May 17, 2011 at 5:30 p.m.

Ms. Cheney was reseated.

Canal/142 Sabbaday Lane/#IW-11-14/Apply Herbicide to Pond:

Mr. Gambino, contractor, stated he had filed an application with the state DEP. He noted that when an application for this pond was first submitted to the Commission in 2008, it had been denied because the applicant had not considered alternate treatments. This time, however, he submitted Attachment #4 listing alternatives that had been considered. He also submitted photos of the existing buffers on the east and west sides of the pond and fact sheets on copper sulphate and Komeen, the chemicals to be used in the pond. He stated that Komeen was safer than Diquat, which had been proposed in 2008. Safety charts were reviewed. Mr. Gambino said he would apply the chemicals after the level of the pond had been slowly drawn down 18 to 24 inches so there would be no siltation downstream as had occurred in the past and that the chemicals would be held in for 24 hours. He explained how the pond's valve structure works. He stated he would look at the weather report and apply the chemicals on a

sunny morning and that the process was safe and there would be no downstream problems. The DEP map showing species of concern was reviewed. He also said all work would be done according to the directions in the state permit, which had already been issued.

MOTION:

To approve Application #IW-11-14 submitted by Mr. Canal to apply herbicides for weed control to his pond at 142 Sabbaday Lane.

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

Nauiakas/170 Church Hill Road/#IW-11-13/Dredge Existing Pond:

Mr. Neff, engineer, presented his map, "Pond Cleanout Plan," dated 4/8/11. He noted the same plan had been approved in 2002, but the work had not been done. He briefly reviewed the proposal to dredge the half acre pond. A 30' X 30' silt basin would be installed at the inlet to trap sediment and 3000 cubic yards of material would be removed from the pond. Side slopes would be 1:3 and the maximum depth 14 ft. The work would take 2 weeks and the dewatering one month. Mr. Neff pointed out the proposed stockpile/dewatering area on the west side of the pond and said the dredged material would be removed from the site. He also stated the work would be done during the driest time of year. Mr. Bedini asked if a driveway access would be installed. Mr. Neff responded there would be a temporary access that would be grassed over upon completion of the work. The pond is in a conservation easement area held by Steep Rock. Mr. Neff said the easement allows pond cleaning and he hoped Steep Rock would confirm this in writing before the next meeting. Mr. Ajello suggested a long term permit in case we experience wet summers like in the past two years.

Enforcement

Schwartz/Loomarwick Road:

Mr. Ajello noted the Commission had recently approved a revision of the permit to increase the size of the garage. However, it appears the plans will be revised further to build a balcony/overhang within 50 ft. of wetlands.

Enforcement Report

Bennett/27 West Shore Road:

Mr. Bennett's attorney had not yet responded to the notice of violation.

Bennett/132 New Preston Hill Road:

The work is progressing.

Brose/213 Roxbury Road/#IW-08-V5:

Mr. Ajello reported that the clearcut area had not been replanted per the approved plan; all the major plantings were missing. He has spoken with Ms. Brose's agent who proposed substitutions to the approved plan per his email dated 5/11/11. The map, "Proposed Woodland Restoration," by Land Tech Consultants, Inc., dated 6/8/2009 was reviewed and compared to the proposed substitutions of species, size, and number of plants. The agent generally proposed smaller sized plants, but more of them to offset the size. The commissioners did not feel qualified to determine whether the proposed changes were comparable to the plants originally specified by Land Tech in its restoration plan and so thought Land Tech should review the proposal. Mr. Ajello will send the email and plan to Land Tech for review.

Douglas/86 Painter Ridge Road:

Mr. Ajello sent a letter to Mr. Douglas as the Commission directed at the last meeting.

Gordon/180 West Shore Road:

The bulk of the work is done; only the planting remains.

Hochberg/15 Couch Road/Unauthorized Excavation, Deposition:

The show cause hearing was continued to June 8, 2011 at 6:30 p.m.

Pond/153 West Shore Road:

Mr. Ajello reported an Agent Approval for repairs to a boathouse where there would be no soil disturbance.

Wang/110 Blackville Road:

Mr. Ajello reported that the unauthorized driveway had been removed, but the required replanting had not been done. Ten trees were supposed to have been planted in the fall. Mr. Ajello will send a letter to Mrs. Wang.

Enforcement Items on Agenda

Town of Washington/16 Titus Road/#IW-09-V2:

It was noted there are still small piles of material in a condensed area. This item will remain on the agenda.

Moore/25 Litchfield Turnpike:

Mr. Ajello stated the screening had not been planted and he had not signed off on the building.

Rosen/304 Nettleton Hollow Road/#IW-08-V2 and #IW-10/V3:

Mrs. Hill asked if the gatehouse had been demolished yet. Mr. Ajello said it had not, possibly because the certified letter sent to Mr. Rosen had been returned. He has since delivered the letter to Mr. Sabin, Mr. Rosen's agent.

Other Business

Shoreline Protection Policies:

A final draft incorporating Atty. Zizka's comments has been completed. Mr. Ajello said he would like to review it a final time. Mrs. Hill asked that a copy be mailed to her for her review. Mrs. J. Hill referred to the state statutes, which require that proposed revisions to IW regulations be sent to the DEP commissioner at least 35 days prior to the public hearing to consider the revisions. She noted, too, that the Commission must state its reasons for the revisions on the record. Mr. Wadelton will incorporate the draft language into a formal proposed revision to the Regs and it will be sent to the DEP as soon as possible. A public hearing will most likely be scheduled for July.

There were no matters to discuss under Executive Session.

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

Mr. Bedini adjourned the meeting at 9:00 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

By Janet M. Hill, Land Use Administrator