

February 25, 2009

Public Hearing – Regular Meeting

5:00 p.m., Land Use Meeting Room

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

ALTERNATE PRESENT: Mr. Bohan

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

ALSO PRESENT: Atty. Strub, Mr. George, Mrs. Frank, Ms. Cheney, Mrs. Cheney, Mr. Bernard, Mr. Sanford, Mr. Charles, Atty. Fisher, Mr. Klauer, Mrs. Solomon, Mr. Szymanski, Mrs. Federer, Mr. Merritt

PUBLIC HEARING

Washington Partners, LLC./108 New Milford Turnpike/#IW-08-57/9 Lot Affordable Housing Subdivision

Mr. Bedini reconvened the public hearing at 5:03 p.m. and seated Members Bedini, Hill, LaMuniere, Wadelton, and Alternate Bohan. He noted the documents submitted to the file since the last session of the hearing.

Mr. George, engineer, noted the map, “Overall Site Plan,” by CCA, revised to 2/13/09. Revisions since the last meeting included the addition of the limit of disturbance line and changes to the retaining wall at the road entrance in order to save some of the existing trees. Mr. George noted the 2/17/09 letter from Milone and MacBroom, which stated that all of the concerns raised to date had been addressed.

Mr. Bedini noted that due to drainage concerns, the Commission would want to review the site development plan for each of the lots at the time it was developed and asked if the current owner planned to develop them or if this would be left to future owners. Mr. George did not know, but said that lots #1, #2, #7, #8, and #9 had development proposed within regulated areas and so would be required to return for permits. Mr. Bedini said he would want the Commission to review even the upper lots due to their steep slopes. Atty. Strub suggested this could be a condition of approval.

Mr. LaMuniere asked if the walking trail around the wetlands would be open to the public. He thought if so, a parking area would be required. Atty. Strub noted that Mrs. Branson, director of Steep Rock, had supported the trail, but said if the Commission thought it would be a negative due to its closeness to the wetlands, it would be eliminated from the plans. He added that if the trail was left on the plans and the Planning Commission thought a parking area was needed, the applicant would come back to Wetlands for an approval of the revision. It was noted that the holder of the deed restriction would be responsible for trail maintenance.

Mr. LaMuniere was concerned about potential pollution that could be caused by the location of the septic system on lot #2. He asked if moving the septic closer to the lot’s access would decrease the likelihood of adverse impacts to the seep, the wetlands, and to the adjacent property. Mr. George said he could not move the septic nearer to the access because there would not be enough separation between it and the well. He also stated that the proposed septic location was almost 200 ft. from the springhouse and whichever location was used, the runoff would flow in the same direction. Mr. LaMuniere stated, however, that the flow from the site nearer to the access would not be as direct.

Comments from the public were received.

Mr. Bernard submitted a letter dated 2/24/09. 1) He was concerned about a “pinch point” between the

proposed retaining wall and road where all of the runoff from lots #1, #2, and #3 would be directed. He thought if the culvert was plugged the runoff would flood the road and scour out under the retaining wall. He asked that as a condition of approval the road be moved away from the corner of the property to allow for better drainage and ease of maintenance. Mr. Bernard stated that if the road was moved there would be room for the swale to continue and for a second culvert should the first one get plugged. He noted that nearby Schwab Road is steep and washes out during short duration storms and he thought similar washouts near the proposed road would plug the proposed culvert. 2) Mr. Bernard asked for a condition of approval that no site disturbance including tree clearing and driveway installation be permitted off the proposed town road until construction contracts for the individual lots are in place. 3) He recommended that monitoring wells be installed between the wetlands and the septic systems on lots #7, #8, and #9. 4) He agreed with Mr. LaMunier that the lot #2 septic system should be moved so there would be no impact on the spring and the watercourse. If this was not possible, he asked that water quality testing be done on the nearby water supply before, during, and after construction and that money be set aside for the installation of a water treatment system should it be determined that the water supply has been impacted. 5) Mr. Bernard recommended that lots #8 and #9 be combined as a feasible and prudent development option. If this was done, there would be no encroachment into the regulated area. 6) Mr. Bernard recommended that the Flirtation Avenue access be reconsidered as a feasible and prudent alternative because he thought it would have less long term impacts. He said if the Rt. 202 access was abandoned, the stream could be restored to its natural state and there would be less impact from salt, oil, heavy equipment, etc.

Atty. Strub stated that all of the issues raised by Mr. Bernard had already been reviewed and addressed by the Health Dept. or by Milone and MacBroom.

Mr. Charles voiced concerns about the construction sequencing, noting that contrary to Mr. Bernard's recommendations, the Housing Trust had indicated that it would require that the driveways, wells, and septic systems be installed for the affordable lots before they are turned over to the receiving entity. Atty. Strub said this issue had to be resolved and there was no formal agreement yet. Mr. George stated that a construction sequence had been submitted, that a road construction phasing plan had been required by Milone and MacBroom, and the road should be stabilized before any lot development takes place. He said that most likely only the driveway apron for lots #1, #2, and #3 would be installed before those lots were sold and ready for development.

Mr. LaMunier explained that because this was an affordable housing subdivision, the lots may not be developed according to who wants to buy them, but it would be required that 30% of the dwellings existing at any time be affordable under 8-30g. He asked how the developer would manage this. Atty. Strub stated that all lots under the Commission's jurisdiction would have to come back for approval prior to their development.

Mr. Bedini asked Mr. Sanford of Milone and MacBroom if all of the issues he had raised had been addressed. Mr. Sanford said they had.

Mrs. Cheney asked what a conservation easement was and Mr. George and Atty. Strub explained the concept. She then asked what was the length of the proposed retaining wall off Rt. 202 and how much fill would be required in the wetlands. Mr. George said it would be 100 – 110 ft. long and 4 – 5 ft. high and that its construction would not require any fill in the wetlands. He noted that all excess road construction material would be taken off site and that the only wetlands impact would be the installation of the road culvert. He said a poured concrete wall was proposed in order to preserve the existing trees.

Mr. Merritt asked if there were plans for reventment at the culvert crossing, if all of the drainage was directed into the brook, and if the bulkhead below the culvert would be stabilized. Mr. George said

there would be a sediment forebay before the detention basin, from there the runoff would flow into the wetlands, and eventually through the culvert and into the brook. He said there would be no increase in the amount of runoff. Mr. Ajello described the route of the brook and the culverts it flows through south of 108 New Milford Turnpike and noted that all of those culverts were on state property. Mr. Merritt told of times in the past when both this property and Rt. 202 had flooded and the existing entrance had washed out because the runoff could not be discharged fast enough. He asked if a study had been done to determine whether the drainage system south of the entrance could handle the water flow. He was skeptical that the installation of gutters, footing drains, and catch basins and the increase in impervious surfaces would not result in an increase in runoff. He agreed with Mr. Bernard that monitoring wells should be installed and water quality tested prior to the start of construction.

Mr. Bernard asked if the entrance area was in a flood plain. Mr. George stated that according to FEMA maps it was.

Mr. Ajello stated that the state would not change the downstream drainage system.

Ms. Cheney noted she appreciated the applicant's offer to plant replacement trees on her mother's adjoining property, but informed the Commission this could not be done due to the location of the septic fields. 1) She asked if there was ledge on the north side of the property, whether blasting would be required, and whether this would impact the wetlands. Mr. George stated there was no ledge where the septic systems were proposed, blasting would be required only for the basement for lot #6, and he did not think it would impact the wetlands. 2) Ms. Cheney asked how soil types were determined and Mr. Sanford explained the criteria used by soil scientists. 3) Ms. Cheney submitted photos of the area where she hoped the existing trees could be saved. Mr. George thought it might be possible to plant replacement trees along the stonewall on the Cheney property and said again, that efforts would be made to save as many of the existing trees as possible. 4) Ms. Cheney submitted a photo of the runoff from lot #1 flowing on her mother's property and said she did not want any additional runoff to flow towards the garage or onto the property. 5) Ms. Cheney noted that Mr. Sanford had previously stated that the brook dries up in the summer, but she said in all the years she has lived next to it, it has never been dry. 6) She submitted a letter dated 2/25/09, in which she asked that if there is any damage to her mother's property, such as the collapse of the stonewall or an increase in runoff, resulting from the proposed construction that the Commission make sure that the applicant makes the necessary repairs. Mr. Bedini explained that the applicant would be required to post a bond to ensure that the work would be done per the approved permit, but he did not know if it could be used to protect an adjoining property. He will consult with Atty. Zizka.

Mr. Charles noted that Myfield, LLC. had been required to install an emergent tank stormwater management system and asked why that was not required in this case. Mr. Sanford noted that this plan proposed rain gardens for infiltration above the wetlands. Mr. Charles noted that rain gardens are effective only if they are maintained and said property owners have been known to destroy them by relandscaping.

Mr. Ajello asked if the applicant would be opposed to marking the conservation easement boundaries on site. Mrs. J. Hill stated that this would be required by the Planning Commission.

Mr. Ajello asked if the applicant would agree to limited surface water testing up front in key areas. Mrs. D. Hill noted this could be a condition of approval. Atty. Strub said he was opposed, noting that the Commission's engineer and the Health Dept. had found the plans were OK as submitted.

Mr. Bernard asked if the 42" culvert was adequate to handle the drainage and noted that it gets plugged, backing up water occasionally. Mr. George said this had not been analyzed because he proposed only to replace the existing pipe and the state sizes culverts to handle 10 year storms. Mr. Sanford briefly noted that it is not the 42" culvert that controls the hydrology above the pipe, but the constricted control point

above the culvert as well as the beaver dams, which allow the wetlands to function as they do today. Mr. Bernard asked if the proposed drainage plans were an adequate solution. Mr. Sanford said they were.

Mr. Ajello asked Mr. Sanford what size bond he would recommend. Mr. Sanford could not say without reviewing the plans, but noted that in addition to the construction of the bridge and the road he had already recommended that money be set aside for planting the basin, removing the invasives, and monitoring the site for three years.

Mr. Bernard was still concerned about downstream drainage impacts. Mr. Sanford advised him that the downstream culverts were on state property and he should take the matter up with the state. He noted that the applicant would need both a permit from the DOT and from the DEP as the watershed was over 100 acres.

Mr. Merritt thought it made more sense to access the development from Flirtation Avenue. Mr. Sanford responded that he had considered this alternative, but thought the high quality wetlands near Flirtation should be preserved and said the proposed Rt. 202 access with the open bottom culvert would improve the condition of the wetlands in that area.

Atty. Strub stated the applicant was comfortable with the record and so requested the close of the hearing.

MOTION: To close the Public Hearing to consider Application #IW-08-57 submitted by Washington Partners, LLC. for a 9 Lot Affordable Housing Subdivision at 108 New Milford Turnpike. By Mrs. Hill, seconded by Mr. Wadelton, and passed 5-0.

Mr. Bedini closed the Public Hearing at 6:35 p.m.

This public hearing was recorded on tape. The tape is on file in the Land Use Office, Bryan Memorial Town Hall, Washington Depot.

REGULAR MEETING

Mr. Bedini called the Meeting to order at 7:04 p.m. and seated Members Bedini, Hill, LaMuniere, and Wadelton and Alternate Bohan.

Consideration of the Minutes

The 2/11/09 minutes were accepted as corrected.

Page 1: End of second paragraph: Add sentence: "He displayed a drawing to illustrate these points.

Page 7: Second line: Should be Mrs. J. Hill.

Throughout: Change: "further" to "farther."

MOTION: To accept the 2/11/09 Regular Meeting minutes as corrected. By Mr. Bedini, seconded by Mr. LaMuniere, and passed 5-0.

Pending Application

Washington Partners, LLC./108 New Milford Turnpike/#IW-08-57/9 Lot Affordable Housing Subdivision:

The commissioners will consider conditions of approval, Milone and MacBroom will recommend conditions of approval and a bond amount, and Mrs. J. Hill will draft a motion of approval.

New Applications

Kinney Hill, LLC./27 Kinney Hill Road/#IW-09-03/Driveway:

Mr. Clark, engineer, reviewed the site plan, "Driveway Construction, by Oakwood Environmental

Associates, dated 2/10/09. He noted approximately 70 acres of the 85 acre property was under a conservation easement and that the purpose of the proposed driveway was to reach the remaining 14 acre section for maintenance purposes. He said that most of the wetlands had been flagged several years ago and that he had included the 12/5/08 soils report by Mr. Temple, soil scientist, to address the soils near the proposed crossing.

Mr. LaMuniere asked why the driveway was proposed through the wetlands instead of to the west of the stonewall where a crossing could be avoided. Mr. Clark said that was not possible due to the location of the boundary line.

Mr. Clark discussed the proposed driveway, which would have a 10% grade in one section and would be gently sloped elsewhere. He pointed out the proposed culvert locations and said there would be grassed lined swales to handle runoff. He reviewed the construction details for the catch basins, culverts, rip rap apron, and headwalls and the erosion and sedimentation controls. It was noted a limit of disturbance line was included on the map.

Mrs. J. Hill noted that two downhill property owners had already complained about runoff onto their properties and asked Mr. Clark to address this concern. He responded that the existing drainage patterns to the existing wetland would be maintained, that there would be several discharge points so the runoff would not be concentrated, and a grass lined swale would discharge the water to the forest floor where it would dissipate and infiltrate. Mrs. D. Hill asked if the drainage onto the Swanson property would be increased. Mr. Clark stated it would not.

Mr. Bedini asked if the portion of the driveway through the wetlands would be built up. Mr. Clark said it would so there would be no problem with mud and so the top of the pipe would be covered. Mr. Bedini asked if this would dam up that part of the wetlands. Mr. Clark said it would, but that it was a very small drainage area and that the water would push down to the catch basin.

It was the consensus of the commissioners that a consultant was not required.

Mr. Clark showed the driveway construction details, including profile, swales, and grades, on his plans, "Driveway Construction," dated 1/28/09.

A site inspection was scheduled for Thursday, March 5, 2009 at 3:00 p.m. Mr. Bedini asked that the center line of the driveway be staked for the inspection.

Other Business

Wykeham Rise, LLC./101 Wykeham Road/Preliminary Discussion/ Affordable Housing:

Atty. Fisher and Mr. Szymanski, engineer, presented the map, "Site Development Plan," by Arthur H. Howland and Assoc., dated 2/20/09 and an informal discussion of the project followed. Mr. Szymanski said the owner proposed to keep all of the existing infrastructure. He briefly reviewed the draft plan. 1) Parking would be installed under the existing dorm buildings. The only improvement required for parking within the regulated area would be a 20 ft. X 10 ft. paved area to access the northern dorm and 250 sq. ft. of pavement for the western dorm. 2) In the eastern part of the property the existing access driveway would remain and would be extended and widened. It would access a new development site that would be outside of the regulated area. An existing gravel parking area would be kept for overflow parking. A new eight dwelling unit building would be constructed to the southeast of the proposed septic area. Its runoff would be directed to a large rain garden and from there to the drainage system consisting of wet ponds constructed per the 2004 stormwater management guidelines. 3) Mr. Szymanski said he would ensure the existing septic galleries were "H-20" so they can accommodate the driveway over them. 4) Sheet flow from the driveway was discussed. A curb would be installed on the downhill side to direct the water into a sediment basin and then into the pond. He said this would improve existing conditions, control the velocity of the runoff, and protect Kirby Brook from sediment

and erosion. 5) Mr. Szymanski noted the existing scouring at the southeast corner along Bell Hill. He said the two existing pipes would be replaced and the incorporation of some kind of seepage envelope would be considered and sheet flow in this area would be encouraged. 6) The driveway profiles were reviewed. The Bell Hill driveway would have a 2% grade along most of its length, but would increase to 5% along the 75 ft. near point 6-50. He said the driveway would not be paved because its grade was less than 10%. Its minimum width would be 16 ft. 7) The erosion and sedimentation control plan dated 2/20/09 was reviewed. 8) No excavation would be required within the regulated area.

Mr. Szymanski asked if under the new Regulations the Commission would require an ecological analysis. Mrs. D. Hill noted the Regulations do not require this, but say only that it may be required. Mr. Bedini said the Commission would most likely have a consultant review the application, but unless the consultant thought it necessary, since the development would be mostly on the existing footprint, he did not think it probable that an ecological analysis would be required.

Mr. LaMunier noted that in the previous application Mr. Szymanski had pointed out that it was not good to have the road drainage empty directly into the brook. Mr. Szymanski responded that under Section 8-30g the applicant could not afford to correct the existing drainage. He said the proposal would not make the existing situation worse because the discharge would have less erosive capabilities and all new development would be at least 350 ft. from the wetlands.

Atty. Fisher stated that he understood the Federers had requested that their Inland Wetlands appeal be mediated and that Wykeham Rise, LLC. had no objection to mediating the Zoning and Inland Wetlands appeals together.

Mr. Bedini asked that when the application is submitted that the applicant avoid last minute revisions that are unfair to all parties concerned.

Executive Session

Atty. Fisher, counsel for Mr. Andersson, was invited to participate in the portion of the Executive Session to discuss the resolution of Andersson/35-45 Gunn Hill Road/Unauthorized Clearing, Trenching in Wetlands. This portion of the Executive Session ended at 8:07 p.m.

MOTION: To enter Executive Session to discuss Andersson with Atty. Fisher and mediation for Wykeham Rise, LLC. By Mrs. Hill, seconded by Mr. Bedini, and passed 5-0.

MOTION: To end Executive Session. By Mrs. Hill, seconded by Mr. Wadelton, and passed 5-0.

Executive Session ended at 9:54 p.m. and the commissioners took the following action:

MOTION: Regarding Andersson/35-45 Gunn Hill Road/ Unauthorized Clearing and Trenching in Wetlands: To approve the 2/23/09 settlement document with attached map submitted at the 2/25/09 Meeting with the correction on page 3, item 4 that the words, "crushed stone and" be deleted. By Mrs. Hill, seconded by Mr. Bedini, and passed 5-0.

MOTION: That the Inland Wetlands Commission agrees to participate in the mediation of the Wykeham Rise, LLC. appeals. By Mr. Bedini, seconded by Mrs. Hill, and passed 5-0.

Mrs. J. Hill was directed to ask Atty. Zizka several questions about mediation that came up during the Executive Session.

Enforcement

Myfield, LLC./Mygatt Road:

Mr. Ajello recommended that the balance of the consultant's fee be returned to the applicant.

MOTION: To return \$4438.16, the unused portion of the Myfield, LLC. consulting fee, to Myfield, LLC. By Mr. Bedini, seconded by Mr. Bohan, and passed 5-0.

Slaymaker/17 Sunset Lane/#IW-07-V14:

Mr. Ajello said there would be no final signoff until after the required planting had been done.

Pending Application

Washington Partners, LLC/108 New Milford Turnpike/#IW-08-57/9 Lot Affordable Housing Subdivision:

It was noted that prior to the next meeting Mr. Sanford would recommend an amount for the bond and any conditions of approval he thought were necessary. It was the consensus that the walking trail should be deleted from the application, but could possibly be added once it was determined who would hold the conservation easement. Mrs. J. Hill was asked to prepare a draft motion of approval.

Other Business

Procedure for Assessment of Retaining Walls Along the Lake Waramaug Shoreline:

Mr. Bedini noted Washington had no regulations that specifically address the lake. He had discussed this with Mr. McGowan and had asked if he and Dr. Kortmann would work with representatives from the Commission to draft policies or regulations. Mrs. D. Hill recommended that policies be written so that shoreline walls could be handled in a consistent manner. Mr. Bedini noted that once these were written, Atty. Zizka would be asked to review them and to recommend whether or not they should be incorporated in the Regulations.

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

Mr. Bedini adjourned the Meeting at 9:27 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill, Land Use Administrator