

March 10, 2010

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

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

MEMBER RECUSED: Mr. Wadelton

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

ALSO PRESENT: Mr. Sanford, Mr. Wadelton, Mr. Charles, Mr. Boling, Mr. Trinkaus, Ms. Canning, Mrs. Corrigan, Mr. Sonder, Ms. Connerty, Mr./Mrs. Condon, Mr. Meyer, Mrs. Lauriat, Residents

PUBLIC HEARING

Straw Man, LLC/135 Bee Brook Road (Juniper Meadow Road)/#IW-09-44/ Bridge and Driveway

Mr. Bedini reconvened the Public Hearing at 5:00 p.m. and seated Members Bedini, Bohan, Hill, and LaMuniere. Mrs. J. Hill read the list of documents submitted for the record since the last meeting.

Mr. Trinkaus, engineer, reviewed the plan, “Wetland Crossing for Access Driveway,” 5 sheets, by Mr. Trinkaus, revised to 3/4/10 including the “Conceptual Development Plan” and he responded to points raised by Atty. Zizka in his 2/24/10 letter and Mr. Sanford in his last review letter.

Mr. Trinkaus presented a plan for affordable housing units, which, he said, would require an 18 ft. wide driveway for access. He noted this was not a final plan, but would change based on further testing of the parcel. He said that the proposed 18 ft. wide travel surface would reduce the impacts resulting from a 24 ft. wide town road, which per Town regulations, would be required to access more than three building lots. He also noted the Inland Wetlands Commission had previously approved a box culvert crossing. The width of this culvert had spanned the entire right of way and since it would have been set below the bottom of the stream channel, it would have resulted in substantially more impact than the current bridge proposal.

Mr. Trinkaus stated the issues raised concerning the sewage disposal system were Health Dept. issues and a civil matter. He said, however, that to address them either a clay barrier could be installed or the driveway could be shifted to the south to eliminate the proposed bank cut. If the driveway were moved, the runoff would continue to flow to the same vegetated swale.

Regarding the pipes under the seepage flow envelope, Mr. Trinkaus stated they had been sized for a 100 year storm and would be almost full under those conditions. He said he did not think the installation of rodent traps would help prevent clogs because they could also trap debris. He thought an 8” pipe without a grate would allow the movement of amphibians.

Mr. Trinkaus noted he had calculated the depth of flow between the abutments, had corrected drafting oversights, and had checked the cross sections to make sure all the grading shown met required standards. He submitted the 3/8/10 ecological report by Mrs. Corrigan.

Mr. Bedini asked if the application would change. Mr. Trinkaus said it would not; it was for the bridge and driveway and all future additional work would have to come back to the Commission.

Mr. Bedini noted the application stated the purpose of the proposed bridge was to access the property to study development concepts and so this was the purpose the Commission would consider.

Mr. LaMuniere asked Mr. Trinkaus to comment on #G6 and asked if he expected to find groundwater on the west side. Mr. Trinkaus said he did not expect to find groundwater, but would conduct soil

borings and would put in crushed stone beneath the footings if groundwater was found there.

Mr. Sonder spoke at length about the points he raised in his letter dated 3/9/10. These included;

- 1) all impacts from the proposed activity should be kept to an absolute minimum including no increases in the danger of flooding and no encroachment on or harm to the Condo Assn. property,
- 2) no activities of any kind should be approved until an absolute need is demonstrated,
- 3) any activity approved should be no greater than the minimum needed to serve that activity,
- 4) the ultimate use of the property is not stated in the application and that is essential in order for the Commission to determine the absolute minimum activity required to serve the end need,
- 5) section 11.02f of the Regulations states that the Commission "shall" consider future uses, but the plan submitted states that it is only one possible scenario and subject to change,
- 6) regulatory, technical, and economic feasibility for the proposed use must be established as there now is no assurance that a Special Permit for affordable housing would be granted or that the property can accommodate more than one single family dwelling, and
- 7) until an application, which includes a comprehensive plan, is submitted, any approval would risk irreversible harm to the wetlands and brook.

Mr. Bedini noted Mr. Sonder had acknowledged the applicant's right to access her property and said the Commission would consider reasonable access based on what the application states its use will be. He stated whether the property would be developed or not in the future was not a part of the application.

Mr. Sonder agreed the proposed access was to enable the owner to enjoy her property and conduct further tests. He said that the application proposed a driveway, but instead, a two lane road was proposed. He said he would have no problem if a one lane, 12 ft. wide driveway was constructed. He stated there was no evidence that what was proposed would be required for the end use and, therefore, it was excessive and would do more harm to the wetlands than necessary.

Mr. Boling stated the owner's enjoyment and intended long term use of the property was the construction of multi family residences, so it would make no economic sense to construct a 12 ft. wide driveway. He added that installing a 12 ft. wide bridge and then within a year widening it to 18 ft. would cause more adverse impact to the wetlands than installing an 18 ft. wide access from the start and that the "vast majority" of the property was upland soils that could accommodate multiple dwelling units. He said the current application showed all that is ever likely to be proposed within the wetlands.

Mr. Bedini noted that regarding the future plans for the property, the Commission would be concerned about development on steep slopes above wetlands and about the stormwater management system.

Mr. Boling stated that while the Fire Dept. was been inconsistent in its recommendations for road and driveway widths, it has consistently called for two travel lanes for public safety. He pointed out that 18 ft. wide was the narrowest width to safely accommodate two way traffic. Mr. Bedini noted a narrower road with pull offs might be suitable.

Mr. Sonder again stated the application was for a driveway and that if a road was proposed, it had to be applied for. Mr. Bedini asked what the definitions were for each. It was noted there was no specified standard for width in the Town's driveway ordinance.

Mr. Sonder used Mr. Battista's study, revised to 2/4/10, for an 18 ft. wide driveway to explain his claim that the proposed driveway grading would encroach on the Association's property by approximately 9 ft. Mr. Trinkaus responded that he stood by his signature and seal that the driveway could be constructed as designed without any encroachment. He noted that the scale was distorted on the plans, that before any work began, the boundary line would be staked in the field, and that he had not received Mr. Battista's plans and he had not been able to review them. Mr. Bedini said he was not sure the encroachment issue was within the Commission's jurisdiction.

Mr. LaMuniere asked Mr. Sonder how the construction of the bridge would increase the danger of flooding on the Association's property. Mr. Sonder said that had been a general statement made when the application had first been submitted, but there had been several changes since then to address his concerns.

Mr. LaMuniere asked Mr. Sonder for his concerns about the east bank. Mr. Sonder replied the depth, size, and location of the footing were concerns because that bank was manmade fill and the footing would probably be deeper than 4 ft. He thought there could be problems during construction.

Mr. LaMuniere asked again how the construction of the bridge would increase the danger of flooding. Mr. Sonder said he preferred to have a more detailed bridge design at this point and said he did not know either the depth of construction or what the footings would look like. Mr. LaMuniere stated the abutment had been moved back 6 ft. so there was no longer a concern about erosion and said he did not see how this would impact flooding.

Mr. Sanford, the Commission's consulting engineer, said he would have a final review for the next meeting after the last documents have been submitted. He asked Mrs. Corrigan to provide the following additional information in her ecological report:

- 1) description of all the existing wetlands on site,
- 2) identification of all existing wetlands functions for both the brook and the wetlands,
- 3) identification of the actual quality of the wetlands, and
- 4) identification of all primary and secondary impacts to the wetlands functions and values noted under #2 above.

Mr. LaMuniere asked if Mr. Sanford would respond to the 3/4/10 letter from Mr. Trinkaus. Mr. Sanford said he would.

Mr. Boling stated that since the applicant was not asking for approval of the conceptual site plan, it would not be revised. Mr. Bedini agreed this was not necessary.

Mr. Ajello asked Mr. Trinkaus how the bridge construction could take place without multiple stream crossings by the large equipment. Mr. Trinkaus said there would be a temporary crossing of telephone poles and a steel plate and a smaller piece of equipment operating from the west side of the brook. He noted driving across the temporary crossing would cause no impact to the stream.

Mr. LaMuniere asked for a provision under long term management that the pipes under the seepage envelope would be checked annually. Mr. Trinkaus agreed to add this note to the narrative.

Mr. LaMuniere commented that the development concept was not very helpful as it shows stormwater management areas, which would be a concern for the Commission, and houses on steep slopes. Mr. Trinkaus stated the purpose of the conceptual plan was to show that the end use of the property would require an 18 ft. wide driveway. He noted that when the stormwater management plans were completed they would show that all of the runoff would not travel down the hill.

Mr. LaMuniere stated that the need for a 12 ft. or 18 ft. wide driveway depended on the future use of the property. Mr. Trinkaus said he had shown a use that requires an 18 ft. wide driveway for the safe and reasonable use of the property.

Mr. Sonder asked when the driveway and bridge would be constructed. He maintained that the applicant stated the construction would not take place until after the entire project was approved. Mr. Boling said the applicant was applying for a permit to build it, but was not saying when the construction would take place. Mr. Bedini noted that future plans may require the modification of any permit issued.

Mr. Meyer asked what would happen if an 18 ft. wide driveway was approved and then the multiple

housing was denied; would the Inland Wetlands Commission be liable for more destruction of the wetlands than had been necessary? He noted that the Condo Assn. had offered to help the applicant by allowing a temporary crossing on the Assn. property. Mr. Bedini responded that the Commission would have to refer that question to its attorney and that asking a neighbor for permission to access your property was not a feasible option.

Mr. Charles asked Mr. Sonder if he had received copies of all of the documents he needed. Mr. Sonder said he had.

At 6:10 p.m. Mr. Bedini continued the public hearing to Wednesday, March 24, 2010 at 5:00 p.m. in the Land Use Meeting Room and urged everyone to get all outstanding information in as soon as possible. He noted that if information was submitted too late to be reviewed, it might not be considered by the Commission.

This public hearing was recorded. The audio is on file in the Land Use Office, Washington Depot, Ct.

REGULAR MEETING

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

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

ALSO PRESENT: Mr./Mrs. Barist, Mr. Szymanski

Mr. Bedini called the Meeting to order at 7:02 p.m. and seated Members Bedini, Bohan, Hill, LaMuniere, and Wadelton.

Consideration of the Minutes

The 2/24/10 Public Hearing-Regular Meeting minutes were accepted as corrected.

Page 2: middle of 2nd paragraph from bottom: Change: "...move the abutments closer together" to: "shorten the abutments."

Page 3: Line #8: Change first sentence to: "Mr. LaMuniere asked if there would be potential for heavy turbulence in a 100 year storm, which would result in scouring and erosion on the bridge's western abutment."

Page 3: Change next to the last paragraph to: "Mr. LaMuniere said he was puzzled by the claim that the seepage envelope would significantly impact the forested wetland pocket. He thought the seepage envelope would not alter the hydraulic function of that wetland and it should continue to function unimpaired. He asked Mr. Sanford to comment."

Page 5: 3rd paragraph: Line #5: Change: "insignificant" to "minor."

MOTION:

To accept the 2/24/10 Public Hearing-Regular Meeting minutes as corrected.

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

Pending Applications

Straw Man, LLC./135 Bee Brook Road (Juniper Meadow Road)/#IW-09-44 /Bridge and Driveway:

The public hearing was continued to Wednesday, March 24, 2010 at 5:00 p.m. in the Land Use Meeting Room, Bryan Memorial Town Hall.

Barist/22 South Fenn Hill Road/#IW-10-04/Clearing, Restoration:

Mr. Bedini read the 2/26/10 letter from Mr. Barist to Mr. Ajello. Mr. Barist explained that he had agreed to remove the woodchips as Mr. Ajello had recommended and had added plans for the continuation of the project. He said he understood the work must progress in a way that would not damage the area.

Mr. LaMunier asked if invasives would be removed beyond the stream. Mr. Barist stated that only one patch of barberry would be removed beyond the stream, but that work would not be done until next winter when the ground was frozen. He said that area could be accessed without crossing the stream. Mrs. Hill noted this was an application to correct a violation. She stated that only work by hand was allowed in wetlands and asked if that was how Mr. Barist proposed to remove the invasives in this wetlands. There was a brief discussion re: no impact vs. low impact equipment on wheels. Mr. Ajello thought hand held equipment such as weed whackers were OK for use in the wetlands, but Mrs. Hill thought such low impact equipment could be used only in those areas surrounding the actual wetlands. She noted that in the recent application submitted by Lyons-Gray, the invasives were to be removed by hand in the wetlands. She thought the Barists would know where they had to work by hand because the wetland had been flagged. Mr. Barist said that he had given instructions that no machines except for a chain saw were to be used in the wetlands, but back from there he wanted to use a walk behind flail as the invasives were too thick to be removed by handcutters. Mr. Barist amended his letter to state that only "hand held" equipment would be used in the wetlands.

MOTION:

To approve Application #IW-10-04 submitted by Mr. Barist for clearing and restoration at 22 South Fenn Hill Road.

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

New Applications

King/153 Lower Church Hill Road/#IW-10-08/Dredge Pond, Construct Rain Garden:

Mr. Szymanski, engineer, presented the map, "Overall Site Improvement Plan," 3 sheets, by Arthur H. Howland and Associates, dated 3/3/10. He proposed to construct a rain garden to handle the runoff from both the barn and house and to dredge the silted in pond. He noted a large amount of sediment, 5000 cubic yards, would be removed and he pointed out the proposed spoils areas to be located in the uplands. He said most of the work would be conducted from the west corner of the pond where the wetlands are the narrowest and said that it would be done during the driest time of the summer. He said tests had been conducted that showed the deepest excavation would be 4 feet to the hard bottom. Mr. Szymanski submitted a letter dated 3/10/10, which stated Mr. King would be responsible for monitoring and maintenance of the erosion control measures. Mrs. J. Hill noted a letter of approval from Steep Rock Assn., holder of the conservation easement on the property, had not yet been received. A site inspection was scheduled for Wednesday, March 17, 2010 at 4:00 p.m.

Leitz/337 Romford Road/#IW-10-07/Construct Garage:

Mr. Ajello briefly reviewed the application and the survey map with the proposed garage drawn in by hand was studied. A timber frame garage with foundation is proposed. Mr. Ajello noted the limit of disturbance line would include a small portion of the lawn on the far side of the driveway. There was a brief discussion regarding how the excavated soils would be handled. Mr. Ajello read the sequence of construction. Mrs. J. Hill said she had notified the applicant that many items were missing from the application such as incomplete DEP form, stockpile areas, conduit location, and limit of disturbance line not shown on the site plan, etc. It was the consensus that the commissioners were familiar with the property and a site inspection was not necessary.

Other Business

Walker Brook Subdivision/Rt. 109, New Milford:

Mr. Bedini noted there had not yet been a meeting with the Selectmen to discuss the Inland Wetlands proposed budget and the Commission's request for funds to monitor Walker Brook. He said, however,

that it would do no good to monitor the brook if the Town was not committed to taking action should problems be found in the future. The ongoing erosion and sedimentation problems at the subdivision were briefly described by Mr. Ajello. Mr. LaMuniere thought more serious pollution would result after the completion of the construction of the houses. Mrs. J. Hill and Mr. Bedini had heard that WEC might have some water quality testing/monitoring capabilities. Mr. Ajello thought the monitoring should be left to the neighbors as he did not think Washington officials were interested in suing New Milford over water quality issues. He said he would continue to inspect the brook and take pictures of any sedimentation. It was noted the purpose of the base line tests proposed was to get data on hand so it would be known in the future whether the subdivision was causing pollution in Walker Brook. Mr. Ajello said additional testing had been recommended, but no plan or testing criteria provided and the estimated cost had been approx. \$1500 per year. Mr. LaMuniere thought baseline testing should be completed now before the stormwater management system and houses were constructed, while Mr. Waderton thought the cost of further testing vs. benefits should be studied. Mr. Ajello thought there would be no return on any money put into testing and that if problems arose in the future, New Milford, NCD, the DEP, and the EPA would get involved.

Enforcement

Beckett/23 Loomarwick Road:

Mr. Ajello said he make sure the erosion controls were in good repair before the predicted storms arrive.

Bennett/80 East Shore Road:

Mr. Ajello said there had been no progress.

Brose/213 Roxbury Road:

Ms. Brose said she would sign the settlement agreement; the completed document is in the file for anyone interested in reviewing it. The starting date in the agreement will be changed to June 1.

Charvillat/96 Roxbury Road:

Mr. Ajello said he was working on the letter the Commission asked him to send to the property owner.

Delancy/79 Litchfield Turnpike:

The Delancys have not contacted the Commission since the last meeting. Mr. Ajello recommended that another letter be sent before following up on the citation. Mr. Bedini noted the Regulations state the property owner must prove he is establishing a farm and that this is an issue that Atty. Branse will be asked to address. Mr. LaMuniere did not think it was necessary to prove a farm was established, but only that a farming activity was being conducted. It was noted that Mr. Delancy had not submitted a plan of operation to the Commission as had been requested and it was the consensus that since he had submitted neither this plan nor an application, that he was in violation. Mr. Ajello will send another letter and if there is no response, further enforcement action will be taken.

Donovan-Biddle/53 Kinney Hill Road:

Work will continue when the ground thaws.

Mello/183 Woodbury Road:

Regrading and stabilization will take place when the ground thaws.

Moriniere/22 Wheaton Road:

Work has resumed. Activities near the wetlands will require a permit.

Tangeman/84 Carmel Hill Road:

This property owner is also waiting for the thaw to resume work.

Town of Washington/16 Titus Road (Old Town Garage Property):

Mrs. Payne had complained that the Town was mowing the field weekly instead of once per year as specified as a condition of approval. Mr. Ajello spoke with the Selectmen who will contact the Highway crew.

DiBenedetto/212-214 Calhoun Street:

There has been no additional cutting. Mr. DiBenedetto plans to continue with substantial planting.

Andersson/35-45 Gunn Hill Road:

Mr. Andersson is waiting for dry weather to complete the work specified in the agreement.

Brown/127 West Shore Road:

The Commission's attorneys are preparing the court case.

Slaymaker/17 Sunset Lane:

\$4000 of the \$5000 bond was returned to Mr. Slaymaker. At least two of the pines have died and must be replanted.

Rosen/304 Nettleton Hollow Road:

The Army Corps of Engineers last sent the Rosens an enforcement letter two months ago.

Schein/245 West Shore Road:

The required planting of the hillside has not yet been done.

Angell/47 West Shore Road:

Mr. Angell paid his fine.

Showah/311 Bee Brook Road:

Mr. Ajello sent Mrs. Showah a letter, but she did not respond. It was noted that had she applied for the driveway, it would have been approved as a farming activity.

Weaver/176 East Shore Road:

Mr. Ajello will meet with Mr. Weaver, Mr. Szymanski, and the DOT on March 26.

Molinari/59 South Fenn Hill Road:

This item will be taken off the agenda.

Administrative Business

Mrs. Hill asked that the citation officer consistently issue citations for the operation of machinery without a permit in the wetlands. She thought both Barist and Delancy should have been sent citations. Mr. LaMuniere thought property owners should be required to submit applications to correct violations when found to have been operating equipment in the wetlands without a permit. Mr. Ajello explained that he usually issues a notice of violation, but hesitates to issue a citation if it appears the property owner will cooperate and work quickly to correct the violation. It was the consensus that the Commission will be more diligent in following enforcement procedures and will let Mr. Ajello know in a timely manner when it thinks a citation should have been sent.

Atty. Branse will speak on Inland Wetlands issues and respond to the Commission's questions on Thursday, April 8 from 5:00-7:00.

Communications

Mr. Bedini noted Mr. Lyons had emailed the Commission about several raised bills in the Ct. legislature. Mr. LaMuniere said revisions to the local regulations would be required if the bills were

approved.

A 2/24/10 document from Ms. Kissance, Transportation Assistant Planning Director, Bureau of Policy and Planning, regarding the highway work to be done along 300 feet of East Shore Road was noted.

Mr. LaMunier, Mrs. Hill, Mr. Bedini, and Mr. Bohan asked Mrs. J. Hill to sign them up for the second Inland Wetlands commissioner training session on May 22 in Torrington.

MOTION:

To adjourn the Meeting. By Mr. Bedini.

There being no further business, Mr. Bedini adjourned the meeting at 9:03 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill

Land Use Administrator