

May 11, 2005

MEMBERS PRESENT: Mrs. D. Hill, Mr. LaMuniere, Mr. Picton, Ms. Purnell

MEMBER ABSENT: Mrs. Gray

ALTERNATES PRESENT: Mr. Bedini, Ms. Coe, Mrs. Korzenko

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

ALSO PRESENT: Mr. Neff, Mrs. Mitchell, Atty. Hammer, Mr. Fenwick, Mrs. Roberts, Atty. Kelly, Mr./Mrs. Baiocchi, Mrs. VonHoorn, Mrs. Frank, Mr. Sears, Ms. Baldwin, Mr. Wellings, Mr. Charles, Mr. Boling, Mrs. Weeks, Mr. Sabin, Mrs. Matthews, Mr./Mrs. Klein, Atty. Fisher, Mr. Dirienzo, Atty. Sienkiewicz, Mr. Kleinberg, Mr. Jack Johnson, Mr. E. Johnson, Public, Press

PUBLIC HEARINGS

Private Mortgage Fund, LLC./61 South Fenn Hill Road/#IW-05-12/ Driveway

Mr. Picton called the public hearing to order at 6:00 p.m. and seated Members Hill, LaMuniere, Picton, and Purnell and Alternate Korzenko for Mrs. Gray. Mrs. D. Hill read the legal notice published in the **Waterbury Republican** on 4/29 and 5/7/05.

Mrs. Hill read the 5/11/05 letters of authorization from Mr. Antonios for Atty. Fisher, Mr. Neff, and Mr. Fenwick. She then noted for the record the following documents in the file:

1. Application #IW-05-12 dated 3/25/05
2. Legal Notice dated 4/28/05
3. Notification of public hearing sent by certified mail to Private Mortgage Fund, LLC. dated 4/28/05
4. Letter from Atty. Hammer dated 4/27/05
5. Notice of Intervention, undated
6. Statement from Mrs. Mitchell requesting copies of paperwork be sent to Atty. Hammer, undated
7. Letter from REMA Ecological Services to Atty. Hammer, dated 4/27/05
8. Resume for Mr. George Logan, REMA
9. Letter from Loureiro Engineering, Assoc. to the Inland Wetlands Commission, dated 4/27/05
10. Resume for Mr. Jeffrey Loureiro
11. portion of Roxbury Quad Map, #62
12. Letter of authorization from Mr. Antonios for Mr. Neff, undated
13. DEP Activity Reporting Form
14. 3/23/05 WEO Report
15. Minutes of the 4/6/05 Site Inspection
16. 4/13 and 4/27/05 Minutes
17. "Soil Erosion and Sediment Control Plan," by Mr. Neff, dated 3/15/05
18. "Proposed Site Development Plan-Boundary Line Revision," by Mr. Neff, revised to 4/26/05
19. "Subsurface Sewage Disposal System," by Mr. Neff, dated 3/7/05

20. Minutes of the 3/23/05 Meeting (weren't in file, but will be included)

21. Office memo dated 4/29/05 by Mr. Ajello and Mr. Picton to discuss issues

Atty. Hammer asked for a copy of the 4/29/05 memo.

The Commission Members cited their backgrounds and qualifications for the record.

Mr. Neff submitted additional documents:

1. Report by Nutmeg Soil Services, dated 8/28/04

2. Letter from Mr. Neff to the Inland Wetlands Commission responding to the 4/27/05 letter from Loureiro Engineering.

3. Copies of the "Soil Erosion and Sediment Control Plan," revised to 5/10/05 addressing concerns raised at the last meeting by the Commission.

Mr. Neff discussed some of the information included in his submissions. He noted test holes adjacent to the existing culvert and 40 feet west of the culvert had been witnessed by the Town Sanitarian and a summary of the findings was attached. Also included were calculations for the capacity of the culvert and watershed calculations from the east and west sides of the watercourse, which took into account the development possibilities. He found the existing culvert exceeded the capacity required for two fully developed house sites to handle a 100 year storm. He noted he had included the existing house to the north of the property in the calculations.

Ms. Purnell asked if there was additional information on wetlands off the site to the north of the property. Mr. Neff stated an intermittent stream from the north, which connects to the wetlands was included, but there had been no investigation conducted on other properties. Mr. Picton asked if the wetlands followed the stone wall on the other property. Mr. Neff did not think it did. Mr. Baiocchi asked if his spring rights were noted on the map. Ms. Purnell indicated the spring was shown.

Mr. Neff reported the farm road was very suitable for the driveway base, consisting of 16" of medium and coarse sand and gravel and 40" deep at the culvert. He noted cross sections of the driveway and the stone walls at the north and south ends of the culvert were provided on the erosion control plan and said the existing culvert was heavy duty reinforced concrete pipe, which was also suitable for the driveway.

Alternatives were discussed. Mr. Neff noted there was a separate application for a lot line revision, which, if approved, would move a second potential house site to a very restricted location on the other lot owned by the Private Mortgage Fund. He said this house site would meet all Health and Zoning requirements. Mr. Picton noted, however, there was an existing approved house site on the east side of the parcel (61 Fenn Hill Road), which required no wetlands crossing and would cause no additional impact to any wetlands or watercourse.

Mr. LaMunier said the report by REMA identified additional possible wetlands on adjoining properties and asked Mr. Neff if he had investigated these claims. Mr. Neff said he had submitted Mr. Temple's 8/04 report to address this. Atty. Fisher stated adjoining property owners could not be compelled to allow wetlands inspections on their properties and asked what the likelihood was that the proposed development would impact the property to the north. Mr. Neff stated the leaching fields would run east to west, not directly down to the watercourse, and the Health Dept. had approved the septic system. Mr. Baiocchi stated a pond on the adjoining property had not been considered and Ms. Purnell asked Mr. Neff to determine whether it was located within the regulated area.

Atty. Fisher noted it had been established that the corner lot, 4 Shinar Mountain Road, is a building lot, but if the Commission approved the lot line revision, the corner lot would not be built on. It was noted

this lot goes back to at least 1943 and meets all the Zoning and Health requirements including density calculations. Mr. Neff stated approval of the lot line revision application would eliminate the possibility of feasible and prudent alternatives in the NE corner of the site.

Mr. Picton suggested features of the lot line revision application could work as mitigation for the impact of resurfacing the driveway in the first application, and in doing so a bad building site could be replaced with a better one. He requested a comprehensive plan for wetlands protection on the corner parcel. Mr. LaMunier asked for a permanent conservation easement. Ms. Purnell cautioned that impact to wetlands and watercourses should not increase due to the lot line revision. She asked whether one 2 BR house or one 4 BR house would have more impact. Ms. Korzenko pointed out the wetlands crossing already exists.

Atty. Hammer, representing Mrs. Mitchell, adjoining property owner, complained that he did not have an opportunity to review the information submitted this evening, and so requested the hearing be continued. He argued that the 1.72 acre corner lot was not a legal building lot per Section 17.2 of the Zoning Regulations. He also argued this lot did not meet the density requirements because it would yield only .34 of a dwelling unit and would require activity within the regulated area if developed.

(At this point, it was noted that due to technical difficulties the hearing had not been recorded as required by statute.)

Atty. Hammer requested the first part of the hearing be repeated so a transcript could be produced rather than relying on the clerk's notes. It was the consensus the hearing would be continued to the next meeting and would be repeated in its entirety and that the public would be given the opportunity to speak tonight.

Atty. Hammer noted his client is an intervener and asked for simultaneous receipt of all information submitted to the Commission and for copies of everything already submitted.

Mr. Logan, environmental scientist hired by Mrs. Mitchell, stated he had issues with the baseline information submitted by the applicant. 1) He noted an intermittent watercourse, which was flagged by the applicant's consultant, was not shown on the map. 2) He conducted water testing and found the water quality was very good. 3) He found mainly grassland species of wildlife on site. 4) He found "rare and uncommon" wildflowers in the rock outcrop area where the stockpile site was proposed. He said the stockpiling of material here would destroy the wildflower community and recommended the Natural Diversity Data Base Map and the DEP be consulted.

Mrs. Roberts, adjoining property owner, requested that if the driveway is approved, the Commission require it not be blacktopped as a condition of approval.

MOTION: To continue the public hearing to consider

Application #IW-05-12 submitted by The
Private Mortgage Fund, LLC. for a driveway
at 61 South Fenn Hill Road to May 25, 2005
at 6:00 p.m. in the Land Use Meeting Room,
Bryan Memorial Town Hall. By Mrs. Hill,
seconded by Ms. Purnell, and passed 5-0.

At 8:12 p.m. Mr. Picton continued the public hearing to Wednesday, May 25, 2005 at 6:00 p.m. in the Land Use Meeting Room.

Stiteler-Giddins/198 Tinker Hill Road and West Shore Road/ #IW-05-13/2 Lot Resubdivision

Mr. Picton called the public hearing to order at 8:15 p.m. and seated Members Hill, LaMuniere, Picton, and Purnell and Alternate Korzenko for Mrs. Gray. Mr. Picton read the legal notice published in the **Waterbury Republican** on 4/29 and 5/7/05.

Mr. Picton referenced all the documents in the file:

1. All minutes pertaining to this application and to the original application,
2. 5/5/05 letter from Land Tech Consultants to the Commission to respond to technical questions from the Chairman
3. 4/14/05 email to Mr. Allan from Mr. Picton
4. 5/10/05 letter from Mr. Alex to Mr. Neff
5. 4/28/05 certified letter to Mr. Stitler and Ms. Giddins from Mrs. Hill re: notification of the public hearing
6. 4/18/05 letter from Mr. Wellings and Ms. Baldwin to the Commission
7. 4/13/05 letter from Ms. Baldwin to the Commission re: expert on vernal pools
8. 4/14/05 memo from Mr. Picton to Mr. Allen
9. Petition for public hearing with at least 25 signatures for second submission
10. 4/12/05 memo from Land Tech to Mr. Ajello and Mr. Picton
11. Appeal of the first application, which was denied without prejudice due to lack of information
12. "Proposed Site Development Plan," by Mr. Neff, dated 10/7/04
13. evidence of certified mailing from Mrs. Weeks to Mr. Ajello
14. 4/12/05 letter from Land Tech to the Commission
15. 10/1/04 letter from Mr. Stiteler and Ms. Giddins to Commission authorizing Mr. Neff to represent them
16. 3/23/05 letter from Atty. Kelly to Commission re: enforcement matter
17. 3/17/05 signed agreement Mr. Neff to pay for consultants' fees
18. copy of check #3085 for consultants' fees
19. 3/18/05 letter from Mr. Neff to Commission re: resubmission of application - Mr. Picton noted all documents associated with the original application were included in the file for the second.
20. 3/8/05 summons to Superior Court
21. "Soil Erosion and Sediment Control Plan," by Mr. Neff, revised to 1/19/05
22. "Proposed Site Development Plan," by Mr. Neff, dated 10/7/04
23. first application received 10/13/04
24. DEP Activity Reporting Form, undated
25. 2/18/05 letter from Mrs. Hill to applicants re: notification of denial without prejudice
26. 2/18/05 legal notice published in **Voices** On 2/23/05
27. 1/26/05 letter from Atty. Kelly to the Commission
28. 1/24/05 letter from Land Tech re: estimate of fee

29. 1/14/05 letter from Mrs. Weeks re: activity in and near wetlands
30. petition with 32 signatures received 1/24/05 (received too late for public hearing)
31. 1/21/05 cover letter from Mr. Neff re: his review of REMA report and revised site development plan
32. Report of Conservation Comm. site inspection received 1/20/05
33. 1/13/05 letter from Mr. Picton to Mr. Jontos requesting review
34. 1/13/05 memo from Mrs. Hill to Mr. Neff re: copies of new documents
35. copy of USGS map with location of property noted
36. 1/12/05 report from REMA to Mrs. Weeks
37. 1/5/05 letter from Mrs. Hill to Northwest Conservation District requesting review
38. 12/16/04 letter from Mr. Neff to Commission re: request for 65 day extension
39. 12/8/04 letter from Mr. Neff to Commission re: responses to questions raised at previous meeting
40. 4 deeds of conservation easements for contiguous lots owned by the applicants
41. 11/1/04 site inspection report
42. 11/06/04 letter from Mrs. Weeks to Commission
43. 11/16/04 email from Mrs. Weeks to Commission re; her concerns
44. 11/1/04 notice of scheduling of site inspection
45. 11/22/04 report by Nutmeg Soil Services
46. USDA soil map with property outlined
47. 3/18/05 letter from Mrs. Hill to Atty. Zizka re: communications concerning court case
48. "Property/Boundary Survey," by Mr. Alex, dated 6/04, received 12/7/04
49. "Proposed Site Development Plan," by Mr. Neff, revised 5/9/05
50. "Proposed Site Development Plan," by Mr. Neff, dated 10/7/05, revised to 1/20/05
51. "Soil Erosion and Sediment Control Plan," by Mr. Neff, dated 10/10/04, revised to 1/19/05
52. "Soil Erosion and Sediment Control Plan," by Mr. Neff, dated 10/10/04
53. "Proposed Site Development Plan," by Mr. Neff, dated 10/7/04, revised to 12/8/04

For reference, Mr. Neff submitted the original report by Nutmeg Soil Services covering inspections conducted on 12/31/1999 and 1/2/00 and a Soil Report Amendment dated 9/29/03. He said he would try to get a copy of the sketch map that originally accompanied this report. He then briefly summarized the proposal to create a 12.87 acre lot with frontage on West Shore Road from the existing 72.22 acre lot with house. He submitted sheet 3 of 7 of the "Proposed Site Development Plan," revised to 5/9/05. He proposed to install a vegetative filter to run along both sides of the proposed driveway to serve as a stormwater management system for the runoff flowing down the hillside. He noted an underground filtration system was not feasible due to the seasonal high water table. He said a small scale, 2 BR house was proposed with a constricted lawn area. The septic system would be installed on the hill above the house and had been approved by the Health Department.

Mr. Picton asked if the vegetative filters would be installed prior to the start of construction. Mr. Neff

said, no, there would be temporary erosion controls up during construction. Mr. LaMunier noted the runoff would be concentrated and asked how it would be taken off site. Mr. Picton asked for a cross section and Mr. Neff agreed to submit one. Mr. Neff stated there was no proposal to regrade the sides of the driveway, which would be buffered with herbaceous, woody plants as a landscape architect advises. Ms. Purnell asked if the installation of the vegetative filters would require that more trees be cut. Mr. Neff said it would not; that some of the lawn would be eliminated.

Mr. Neff reported that Mr. Alex and Mr. Temple had reinspected the property to identify the additional intermittent watercourse noted by Mr. Allen of Land Tech. They did not find it, however, and stand by their original mapping. One wetlands flag that had been omitted from the map will be added. Mr. Picton submitted the 4/12/05 photo, which showed the watercourse or surface runoff Mr. Allen had referred to. Its location was midway up the east side of the proposed driveway.

Mr. Picton noted Land Tech's 5/5/05 comments were included in the record.

There were the following comments from the public.

- Mrs. Frank, Conservation Commission, asked how wide the vegetative buffer would be. Mr. Neff said it would be 15 feet wide. Mrs. Frank then asked if it would still be necessary to cut down so many trees. Mr. Neff said, yes, the trees originally proposed to be cut would be cut and that area replanted with the buffer.
- Mrs. Sutter, West Shore Road, asked for the size of the proposed house. Mr. Neff said it was 2 stories, 30' X 50' with a 50' X 8' porch; 3000 sq. ft. total.
- Mr. Wellings, West Shore Road, asked if the new lot would have lake rights. Mr. Neff explained the 12.87 lot would include the lake frontage across the road.
- Mrs. Weeks, adjoining property owner, stated there was an ecological reason why the property had not previously been developed; that it was a wet drainage basin for Mr. Bushnell. She said it was wet three quarters of the year and subject to tremendous runoff. She suggested the applicant find a different access from Tinker Hill Road so the wetlands would not have to be filled. She said it was the property owners' right to construct a house on the property, but said they did not have the right to impact the lake's water quality by constructing an access that was not suitable for that site and curtain drains for the septic that would not function properly in time. Again, she suggested both the house site and driveway be moved up the hill so they could be accessed from Tinker Hill Road. She asked all concerned people in the audience to stand. Approximately ten people stood.
- Mr. Kleinberg said the original 80 acre parcel was riddled with streams, which all emptied into the basin that is blocked by the road. He said there is nowhere for the water to go because the road dams it up. He stated the owners had already cut down a lot of sensitive forest and said this property had already reached the maximum amount of development that it could handle. He said the owners could not claim they were being denied the use of their property if the application were denied because they had had previous subdivision applications approved and had placed conservation easements on several lots.
- Atty. Sienkiewicz represented Mrs. Weeks. Using 1" = 100' maps, which he said were already in the file, he discussed the resubdivision application. He said the applicant had not considered feasible and prudent alternatives as required under the Commission's Regulations. He reviewed the existing adjoining lots with conservation easements and suggested the owners could use Tinker Hill Road to access the proposed house site. Ms. Purnell noted that portion of Tinker Hill Road is basically a watercourse. Atty. Sienkiewicz said the owners had landlocked themselves with the conservation easements, created their own problems, and now find themselves having to deal with difficult site conditions. He suggested they access the proposed house site through the existing property, which he

said, was a feasible and prudent alternative. He noted the contours on site and explained they come down from the east to the proposed building site and so, in effect, the proposed building would be in a bowl. Mr. Picton asked if there were better possible house sites. Atty. Sienkiewicz said there were flatter building sites on Parcels B and D, but that these had conservation easements. Mr. Neff said he had considered feasible and prudent alternatives in his 12/8/04 letter to the Commission. Atty. Sienkiewicz referred to the map revised to 1/20/05 to point out the regulated area and how tight the proposed house site was on all sides. He said it did not make sense to approve a house in such a restricted location as once it was built the limits would continue to be pushed for things such as clearing to prevent mosquitos, play areas, etc. Atty. Sienkiewicz complained there were no construction details for the proposed curtain drain. He noted the drain would discharge to the slope protected only by a silt fence, which would not be maintained on a permanent basis. He asked where the runoff would go, and answered that it would flow towards the driveway and would collect by West Shore Road where there are presently two partially plugged culverts that would require upgrading. He noted the Commission's consultant had found the watershed area to be handled by the drain and swale was larger than was claimed by the applicant. Mr. Picton said he would discuss this matter with Land Tech. Atty. Sienkiewicz also asked the Commission to give careful consideration to the Conservation Commission's 12/11/04 report. He said the Conservation Commission, REMA, as evidenced in photos taken on 12/31/04, and his own observations, as shown in photo #3, show flowing water coming down the hill just west of wetland flag #99 and an area of standing water to the east of the driveway. He noted the Conservation Commission found the proposed development would reduce the storage capacity of the land and would likely increase the runoff into the lake and so recommended the installation of dry wells and additional culverts and no clearcutting on the property. Mr. Picton stated the Commission agreed there was a high volume of surface water flowing over the site and that it had to be engineered properly. He questioned whether one more watercourse should be added to the map. Atty. Sienkiewicz questioned the validity of Mr. Temple's soil reports. He said he could find no evidence that Mr. Temple is a certified soil scientist and he pointed out that the soils referred to in his 11/22/04 report were not indicated on his map. Atty. Sienkiewicz pointed out discrepancies between the map and the erosion control narrative. He also stated that considering the new proposal for vegetative buffers, there was no longer any need to clear cut all the trees within 40 feet of the proposed driveway. He pointed out that no planting plan for the buffer had been submitted for the Commission's review. Mr. Picton requested a planting plan.

- Mr. Logan, environmental scientist, stated the area at the bottom of Lot #3 is a regulated area because it is a watercourse falling under the definition of a swamp. He said Land Tech's inspection of the site had not been conducted during the growing season and so was deficient in that respect as swamps are defined by vegetation, not soil type. Mr. Picton read the 5/5/05 letter from Land Tech. There was a discussion concerning the state definition of watercourse in Section 22a of the statutes.

The size of the watershed was briefly discussed. It was noted Land Tech thought it was larger than .25 acres, but did not say how much larger.

Mr. LaMunier said he was concerned about the ability of the soils on site to handle the sewage. He asked Mr. Neff to address this issue. Mr. Neff said a curtain drain would be installed to pick up the excess flow and that this had been approved by the Health Department. He said he had no doubt the septic system would work, but stressed the curtain drain was needed.

- Ms. Baldwin noted conservation easements in Litchfield County are often swapped and suggested the owners might place the proposed lot under an easement while lifting one of the existing easements off one of their other parcels, which would be more suitable for development. She favored the prohibition of all soil disturbance in this area in order to preserve the quality of the lake. Ms. Purnell said this matter should be addressed by the applicant when feasible and prudent alternatives are considered.

Mr. Picton summarized the outstanding issues and asked that the following documentation/information be submitted:

1. The intermittent watercourse flagged but not shown on the map should be added to the map.
2. The watershed for the whole site, not just the house site, should be recalculated.
3. More detailed information about the water flowing over the entire site is needed.
4. All points raised in Mr. Allan's 5/5/05 letter should be addressed.
5. The map should be labeled more clearly. Mr. Neff noted many of the details the Commission wanted to see were already on the 40 scale map in the file.
6. The driveway cross section should be submitted.
7. Details for the stockpile areas near the driveway should be provided.
8. A planting plan listing species and giving reasons why clearcutting within 40 feet of the driveway is still required should be submitted.
9. A thorough discussion of feasible and prudent alternatives should be presented.
10. There were some questions raised about whether the stonewall actually extends as far as shown on the map. This should be corrected.

Mr. Neff pointed out that Mr. Allan of Land Tech identified the area east of the driveway as a watercourse, but Mr. Temple did not.

MOTION: To continue the public hearing to consider Application #IW-05-13 submitted by Stiteler-Giddins for a 2 Lot Resubdivision at 198

Tinker Hill Road and West Shore Road to

May 25, 2005 at 5:00 p.m. in the Land Use

Meeting Room, Bryan Memorial Town Hall.

By Mrs. Hill, seconded by Ms. Purnell, and passed 5-0.

At 8:55 p.m. Mr. Picton continued the public hearing to Wednesday, May 25, 2005 at 5:00 p.m. in the Land Use Meeting Room.

These public hearings were recorded on tape. The tapes are on file in the Land Use Office, Bryan Memorial Town Hall, Washington Depot, Ct.

REGULAR MEETING

Mr. Picton called the meeting to order at 9:08 p.m. and seated Members Hill, LaMunier, Picton, and Purnell, and Alternate Bedini for Mrs. Gray.

It was the consensus that due to the late hour, Consideration of the Minutes would be taken up at the end of the meeting.

Pending Applications

H.O.R.S.E. of Ct./43 Wilbur Road/#IW-05-57E/Construct Sheds and

Fence: Mr. Ajello said he was still trying to schedule an on site meeting with Mrs. Wahlers and Mrs. Johnson.

Private Mortgage Fund, LLC./61 South Fenn Hill Road/#IW-05-12/ Driveway: It was noted the public hearing had been continued to Wednesday, May 25, 2005 at 6:00 p.m.

Stiteler-Giddins/198 Tinker Hill Road and West Shore Road/ #IW-05-13/2 Lot Resubdivision: The public hearing was continued to May 25, 2005 at 5:00 p.m. in the Land Use Meeting Room.

Washington Art Association/4 Bryan Plaza/#IW-05-17/Streambank Stabilization: Mr. Sears submitted a new plan, "Proposed Bridge and River Bank Stabilization," by Land Tech Consultants, revised to 5/1/05, which showed an approximate 30 ft. decrease in the length of the proposed gabion wall. The revised plan was compared to the 4/6/05 plan. Mr. Picton noted 3 feet of fill was required behind the wall so it would merge with the top of the slope. Mr. Picton questioned why the wall had to be so high. He said he did not like the idea of unnatural streambanks and thought this was a poor example to set. It was noted, however, that this was a special situation because there was a building within 20 feet of the stream and because there was evidence of erosion of the streambank. Ms. Purnell stated the repair work would merely address a symptom and not the underlying problem, which was the cumulative impact of upstream activities. She noted for the record the Commission must consider feasible and prudent alternatives and it had been the consensus that bio engineering features would not be feasible. Mr. Sears noted poured concrete streambanks like those further downstream were another option. Ms. Purnell and Mr. Picton wanted assurance that the gabion would not be installed any farther up stream than was shown on the 5/1/05 plan. Mr. Sears said it would not. Mr. LaMuniere and Mr. Picton asked why the wall had to be 6 ft. high. Ms. Purnell said since the width of the streambed was being reduced, the increase in height would compensate during high water events and prevent the wall from eroding from behind. Ms. Purnell asked for mitigation to offset the impact to the watercourse and said it was important that the Commission act in a consistent manner.

MOTION: To approve Application #IW-05-17 submitted

by the Washington Art Association to stabilize the streambank at 4 Bryan Plaza per the plan, "Proposed Bridge and River Bank Stabilization," by Land Tech Consultants, Inc., revised to 5/1/05. By Mr. LaMuniere, seconded by Mr. Picton, and passed 4-1.

Ms. Purnell voted No because there was no mitigation proposed to offset the impact to the watercourse.

Private Mortgage Fund, LLC./61 South Fenn Hill Road and 4 Shinar Mountain Road/#IW-05-18/Lot Line Revision: Mr. Neff submitted a feasibility plan, "Proposed Site Development Plan," by Mr. Neff, dated 5/10/05, for the 1.69 acre lot. Mr. Picton thought when an applicant proposed two expansive house sites where there was one and a second marginal site existing, a comprehensive site plan including wetlands protection and limitations of uses near wetlands should be submitted. He said the Commission had no guarantee that if the lot line revision were approved, the applicant would not propose a third house site at a later date. Mr. Neff noted at the last meeting the applicant's attorney had said this would not be done. Ms. Purnell questioned which would have more impact on the wetlands; the smaller footprint house closer to wetlands or the two larger houses. Mr. Neff responded the larger houses would not be within 100 feet of the wetlands. Ms. Purnell said the quality of the wetlands also had to be considered. Mr. Picton asked that a wetlands protection line and a line marking the limit for

cutting vegetation be shown on the map. Mr. Neff agreed to submit a more comprehensive plan to include specific wetlands protection measures. Ms. Coe asked whether Zoning would approve the application and if Atty. Hammer was correct that the smaller lot was not legal per Section 17.2 of the Zoning Regulations. Mr. Ajello responded the Wetlands Commission should consider only wetlands issues.

Rosen/304 Nettleton Hollow Road/#IW-05-20/Reconstruct Accessory Building: Mrs. Donnolly represented the applicants. Mr. Ajello said he had inspected the property and thought there would be no significant impact from the proposed activities. Mr. Picton noted adequate erosion control measures had been proposed.

MOTION: To approve Application #IW-05-20 submitted

by Mr. and Mrs. Rosen to renovate the accessory building at 304 Nettleton Hollow Road as submitted. By Mr. LaMunier, seconded by Mr. Picton, and passed 5-0.

Town of Washington/11 School Street/#IW-05-21/Sprinkler System and Well: Mr. Picton noted the only question unresolved at the last meeting was the exact location of the well. Mr. Ajello noted there was no new information in the file. It was the consensus to approve the application with conditions.

MOTION: To approve Application #IW-05-21 submitted by

the Town of Washington to install a well and sprinkler system at 11 School Street subject to the following conditions:

1. the well shall be drilled in the existing lawn area, not in the wooded riparian buffer,

2. silt fence must be installed between the well and the river before the well drilling begins.

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

Sarjeant/27 Tinker Hill Road/#IW-05-22/Single Family Dwelling: The map, "Proposed Sanitary Disposal System Plan," by Howland, revised to 5/20/05 was reviewed. Mr. Ajello pointed out the limit of disturbance. Mr. Picton noted a site inspection had been conducted and that due to the steep slope, the Commissioners had been concerned about the adequacy of the proposed erosion controls. Mr. Sarjeant stated he would install a temporary hay bale line across the driveway, which would serve as overnight protection for storm conditions. Ms. Purnell asked if the stockpile area could be moved as there were 25 ft. wide vegetated buffers elsewhere on the property. Mr. Sarjeant said they would be moved if possible. Mrs. Korzenko stated the largest threat of sedimentation was from runoff from the site during construction. Ms. Purnell asked if there were any permanent provisions at the top of the slope for handling runoff. Mr. Sarjeant pointed out a stonewall, which would slow the flow, but said the Health Dept. might require it be removed because it is located within 50 feet of the septic system. Mr.

Picton advised the applicant that careful maintenance of the erosion controls would be required and that the WEO would monitor the site and require additional measures as needed. Mr. Picton asked if a bond should be posted for emergency repairs. Mr. Ajello did not think this was necessary because Mr. Sarjeant lives next door to the construction site and could take care of minor problems before they became major ones. Ms. Purnell thought additional erosion control measures would be necessary, but thought they could be added as the project progressed.

MOTION: To approve Application #IW-05-22 submitted by Mr. Sarjeant to construct a single family dwelling at 27 Tinker Hill Road per the plan, "Proposed Sanitary Disposal System Plan," by Mr. Howland, revised to 5/20/05, subject to the following conditions:

1. due to the steep grades and existing ledge on the property, the owner shall closely monitor the erosion and sedimentation controls,
2. the owner shall bear the cost of cleaning up any sediment that leaves the property.

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

New Applications

MOTION: To add the following subsequent business not already posted on the agenda: New Applications:

1. Matthews/142 Upper Church Hill Road/#IW-05-23/ Reconstruct and Extend Driveway,
2. Rosen/304 Nettleton Hollow Road/#IW-05-24/Tennis Court,
3. Myfield, LLC./7 Mygatt Road/#IW-05-25/ Construct 10 Single Family Dwellings,
4. Murgio/21 New Preston Hill Road/#IW-05-26/Clear Brush, and

Other Business: Calhoun Street Trust/62 Calhoun Street/Request to Amend Permit #IW-05-03/Addition to Existing Dwelling. By Mr. LaMunier, seconded by Mr. Picton, and passed 5-0.

Matthews/142 Upper Church Hill Road/#IW-05-23/Reconstruct and Extend Driveway: The map, "Soil Erosion and Sediment Control Plan," by Mr. Neff, dated 5/6/05 was reviewed. Mrs. Matthews stated she planned to either use the existing house as a guest house or tear it down and construct a new dwelling. The driveway would be extended to the new house site. Mr. Neff noted the existing driveway

would be reconstructed and a culvert replaced. Mr. Ajello was asked to review the plans and report to the Commission at the next meeting. A site inspection was scheduled for Tuesday, May 17, 2005 at 4:30 p.m.

Rosen/304 Nettleton Hollow Road/#IW-05-24/Tennis Court: Mr. Sabin, landscape architect, represented the applicants. The plan, "Tennis Court Schematic Refinements," by Mr. Sabin, dated 5/7/05 was reviewed. The court would be built into the hillside and a retaining wall and stone walkway for access were also proposed. The structure would be 70 feet from the wetland and the required grading would come within 30 feet. Runoff would be directed to dry wells and invasive plants would be removed and replaced with native species. Existing vs. proposed grades were reviewed. Mrs. Korzenko asked if the Commission would also receive an application for a septic system as Mr. Sabin said the owners planned to do the work required for both at the same time. Mrs. Hill commented the tennis court would be visible from the road. Mr. Sabin said trees would be planted to screen it. A site inspection was scheduled for Tuesday, May 17, 2005 at 4:00 p.m.

Myfield, LLC./7 Mygatt Road/#IW-05-25/10 Single Family Dwellings: Mr. Boling submitted ten copies of the application and reports and asked for the dates of the public hearing and site inspection. A public hearing was scheduled for June 8, 2005 and a site inspection on Tuesday, May 17, 2005 at 5:00 p.m. Mr. Boling said the proposed house sites, limit of disturbance, and areas proposed for conservation easements were clearly marked on site. It was noted the houses had been kept out of the field and so were proposed closer to the wetlands and watercourse. Mr. LaMunier asked the applicants to justify the layout. Mr. Boling said the Natural Resource Inventory Report identified the field as a view that should be preserved and also said the plan attempted to preserve prime farm soils.

MOTION: To schedule a public hearing to consider

Application #IW-05-25 submitted by Myfield, LLC. to construct 10 Single Family Dwellings at 7 Mygatt Road on Wednesday, June 8, 2005 at 6:00 p.m. in the Land Use Meeting Room, Bryan Memorial Town Hall. By Mrs. Hill, seconded by Mr. Picton, and passed 5-0.

In response to a question from Mr. Tagley, it was noted site inspections are open to the public.

Murgio/21 New Preston Hill Road/#IW-05-26/Clear Brush for Access: Mr. Charles represented the applicant. The map, "Property/Boundary Survey - First Cut," by Mr. Alex, dated May 2005 was reviewed. Mr. Charles said only clearing was proposed at this time; a first cut would be applied for at a later date. He said the wetlands had been flagged. He noted there had been a question about whether there was a vernal pool on the property, but that Mrs. Corrigan and Mr. Ajello had inspected and advised him it was not. Ms. Purnell noted that neither Mrs. Corrigan nor Mr. Ajello is a wetland scientist. It was the consensus to ask Mr. Ajello to make an inspection and report back at the next meeting regarding whether there were any problems in light of the Commission's sensitivity to clearing in and around wetlands.

Enforcement

Reinhardt and Cremona/10 and 8 Perkins Road/Unauthorized Clearcutting: Mr. Dirienzo, environmental consultant, submitted his 5/10/05 report, noting he had not been paid and it was his honest assessment. In summary, he made the following points: 1) There was no doubt that the clearcutting done was a regulated activity. He noted the location of an intermittent, possibly perennial

watercourse, and the headwaters of a second stream. 2) He said the hardpan soil in the area had no drainage capacity and that those who did the clearing failed to recognize the delicate situation on site and the potential for downstream damage if the existing drainage patterns were changed. It was noted there was a "staggering" amount of runoff in the area. 3) He stated runoff had increased 50% as a result of the clearcutting and downhill properties had already been negatively impacted. He made this conclusion because vegetation takes up 50% of runoff, but since this acre had been clearcut, that water was now flowing down the hill. Mr. Dirienzo stated that in addition to the clearcutting, the intermittent stream had been trampled. He recommended the Commission decide on the course of action that will be best for the environment. He advised it that some kind of engineered drainage control was needed in addition to more erosion and sedimentation control measures. The environmental impact to the lake, which would result from storm events, was noted. Ms. Purnell stated there would be thermal impacts, sedimentation, and additional pollution. Mr. Dirienzo thought there was a chance that the intermittent stream could dry up because the overhead canopy had been cut down. Mr. Ajello noted that when both streams are considered, the 100 ft. review area encompasses a large portion of the cleared area. Mr. Picton questioned whether just allowing the vegetation in the cleared area to regrow naturally would provide the volume of uptake necessary to prevent downhill impacts. Mr. Dirienzo said that was why he recommended a stormwater control system, but added that possibly the combination of planting large trees and installing a stormwater system could work. Ms. Purnell said it was important to reestablish some canopy cover as soon as possible. Mr. Picton will also consult with Mr. Jontos of Land Tech about quantifying the cost of the damage. Mr. Dirienzo suggested more than \$50,000 damage had been done. He briefly discussed how the Town of Roxbury had negotiated with violators to avoid going to court to collect damage on enforcement matters. Mr. Dirienzo recommended the Commission contact both the state DEP and the Phase II stormwater management staff to get the state involved in this matter. Don Gonyea with the stormwater permitting unit and Chris Stone, the head of the stormwater division, were suggested as contacts. Mr. Picton asked Mr. Ajello to write a letter to the DEP and to the stormwater management unit, which Mr. Picton would sign on behalf of the Commission. Mr. Picton said he would also consult with the US Forest Service and Atty. Zizka. The Commissioners thanked Mr. Dirienzo for his time and efforts.

Other Business

Calhoun Street Trust/62 Calhoun Street/Request to Revise Permit #IW-05-03/Addition to Existing Dwelling: Mr. Neff noted the previous addition approved had been 83 feet from wetlands. The current proposed 15' X 18' addition to the SW corner of the existing house was 89 feet from wetlands. Mr. Ajello said that there was a heavily landscaped lawn area between the construction site and the wetlands and the construction would be contained.

MOTION: To approve the revision to Permit #IW-05-03

as requested by the Calhoun Street Trust to

construct an addition extending 15 feet to

the SW of the existing dwelling, subject to

the conditions of the original permit. By

Mr. Picton, seconded by Mr. LaMunier, and

passed 5-0. Ms. Purnell abstained and Mrs.

Korzenko was seated.

MOTION: To add subsequent business not already posted

On the agenda: Other Business: Johnson/30

Mountain Road/Preliminary Discussion/

Subdivision. By Mr. Picton, seconded by Mrs.

Hill, and passed 5-0.

Johnson/30 West Mountain Road/Preliminary Discussion/Subdivision:

Mr. Johnson presented a preliminary map of his 40 acre parcel, "Property/Boundary Survey," by Mr. Alex, dated February 2005 and explained he would like to create two additional 6 acre lots. He pointed out areas where he might propose right of ways and conservation easements. Mr. Picton asked if a soil scientist had flagged the property. Mr. Johnson noted the location of a pond and a stream on the property and said all proposed activity would be 300 to 400 feet from any wetland. He said the subdivision was for his family and asked if a full wetland flagging would be required for the Wetlands application. Mr. Picton asked him to lay out all proposed activities and to have a soil scientist investigate the land within 200 feet of any development. It was noted, however, that for the subdivision application and the required residential density determination from the amount of wetlands on the entire property would have to be calculated.

Enforcement

Feola/Carmel Hill Road/Clearing, Excavation in Wetlands: Mr. Ajello showed photos of the excavation and regrading done. He noted Mrs. Corrigan informed him that a vernal pool had been filled, but she had not yet provided any documentation. Mr. Ajello was directed to write an investigatory letter to Mr. Feola. If there is no response, a citation will be issued.

Croasdaile/River Road/Clearing: It was noted Mrs. Croasdaile had cleaned out her steeply sided detention basin two years ago. Mr. Ajello said all the vegetation had been cleared from the banks and they had been raked clean. Mr. LaMunier said the banks would likely erode into the basin. Mr. Ajello said he had recommended to the owner that a jute mat be installed to stabilize the banks. Mr. Ajello will send a Notice of Violation and this matter will be discussed again at the next meeting.

Mitchell/Shinar Mountain Road: It was noted that Mrs. Mitchell, adjoining property owner to 61 South Fenn Hill Road, had cleared the understory on her property.

Fowler/Nichols Hill Road: Mr. Ajello said he had asked Atty. Kelly to respond, but had received no response.

Averill/14 Sunset Lane: Mrs. Korzenko noted the Commission had seen violations on this property while inspecting the adjoining property, but as yet, had done nothing about them. Mr. Ajello will send a Notice of Violation.

Blackville Road near Mallory Brook: Mrs. D. Hill said she called in a complaint regarding clearing along Mallory Brook, but did not know whether it had been addressed. Ms. Purnell reported severe erosion on a hillside on Blackville Road near the bridge. Mr. Ajello said he could not find the area Mrs. Hill was concerned about, but would look again.

Other Business

Aquatic Herbicide Applications: 1) Pinover/Senff Road: Mr. Picton thought the Commission might be confused about which pond would be treated. He asked Mr. Ajello to make an inspection and report back to the Commission. 2) Canal/Sabbaday Lane: This pond is definitely located on a stream, which concerned the Commission. Mrs. Hill was asked to send both the DEP and the Canals the same letter sent to Mr. Pinover, which noted the herbicide treats the symptom, not the cause of the problem.

3) Meyer/Senff Road: This pond was previously owned by the Wertheimers and is Clunde Pond on local maps. The same concerns were voiced about this pond as it is on a stream, which is a tributary to the Bantam River. Both the DEP and property owners will receive a letter from the Commission.

Walker Brook Subdivision/Rt. 109/Mew Milford: Due to the late hour, this matter was not discussed. Mr. LaMuniere stated the public hearing had been continued to May 12 and that the Commission may want to hire a consultant to review all of the calculations.

Executive Session: There was nothing new to report on any of the pending appeals.

Consideration of the Minutes

The 4/27/05 Regular Meeting minutes were accepted as amended.

Page 3: 4th line under Holly Hill: After "Whittlesey Road" add: and the driveway, which flowed....

Page 4: 3B: Wildflower is one word.

Page 5: 4th line: Change "which" to "that." Delete comma.

Page 6: 15th line under Private Mortgage Fund: Change "minimum" to "limited" damage....

Page 7: Third line above motion: Change: "due to the public interest shown" to "because it was thought to be in the public interest."

Page 8: 3rd line from the bottom: Correct spelling is locust.

Under Town of Washington/Replace Bridge: It should be noted, too, that this is a matter of consistency as other applicants have been asked to do the same.

Page 10: Under Rosen: 16th line: Sonotube is one word.

Page 12: Under Carter/292 Walker Brook Road: Delete "an application" and add: "a report from the engineer regarding how the approved plan was carried out and how what was built differs from what was approved."

MOTION: To accept the 4/27/05 Regular Meeting minutes as amended. By Mrs. Hill, seconded by Mr.

Picton, and passed 5-0.

MOTION: To accept the 5/3/05 Sarjeant site inspection minutes as written. By Mrs. Hill, seconded by

Mr. LaMuniere, and passed 5-0.

MOTION: To adjourn the meeting. By Mrs. Hill.

Mr. Picton adjourned the meeting at 11:43 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill

Land Use Coordinator