

January 11, 2012

Public Hearing – Regular Meeting

5:00 p.m./7:00 p.m. Land Use Meeting Room

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

MEMBER ABSENT: Mr. Bohan

ALTERNATE PRESENT: Mr. Papsin

ALTERNATES ABSENT: Ms. Cheney, Mr. Martino

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

ALSO PRESENT: Mr. Allan, Atty. Olson, Atty. Andrews, Atty. Williams, Mr. Smith, Mr. Buck, Mr. Neff, Mrs. Frank, Mrs. Payne, Ms. Zelenko, Mr. Logan Atty. Marcus, Mr. Piscuskas, Ms. Gadwa, Ms. Roberts, Mr. Swain, Ms. Purnell, Mr. Sabin Mr./Mrs. Crumrine, Mr. Kiiffner, Mr. Szymanski Mr./Mrs. Solomon, Ms. Caroe, Mr. Caroe, Mr. Gagnon, Mrs. Buonaiuto, Residents, Press

PUBLIC HEARING

The Gunnery School, Inc./22 South Street/#IW-11-40/Athletic Fields

Mr. Bedini reconvened the hearing at 5:05 p.m. and seated Members Bedini, Hill, LaMuniere, and Wadelton and Alternate Papsin for Mr. Bohan. Mr. Wadelton read the list of documents added to the file since the last session of the public hearing.

Representing the applicant, Atty. Williams made the following points: 1) an irrigation plan had been submitted since the last meeting, but it did not change the regulated activities that are proposed and 2) all new information with the exception of the turf management and pesticide management plans, which had been requested by Mr. Allan, had been submitted at least a week prior to the hearing.

Also representing The Gunnery, Atty. Andrews explained the registration process required by the DEEP for projects disturbing 10 or more acres per CGS 22a-430b. Atty. Williams stated The Gunnery would register after local approvals were granted and at least 30 days prior to the start of construction.

Mr. Smith, surveyor, briefly summarized his 12/22/11 letter to the Commission regarding the proposed irrigation system. He noted it does not extend beyond the limit of disturbance already shown on the plans. He noted, too, that comprehensive turf and pesticide management plans had been submitted.

Atty. Williams addressed the 1/10/11 "Memorandum of the Intervenor," by Atty. Marcus, which, he said, contained factual inaccuracies. 1) Atty. Marcus claimed the applicant had first submitted one application and then another, but Atty. Williams stated that the applicant had never mislead the public about what it was proposing. Atty. Williams said the Commission's notices were clear that it was considering an application for a permit for athletic fields. He also said that the Commission had never used the term, "declaratory ruling," two consultants had advised the Commission that it had jurisdiction in this matter, and the Commission had determined that an application was

needed. He said the statement by Atty. Marcus that the sole purpose of the public hearing was to consider whether there should be a declaratory ruling was false. 2) Atty. Williams said the application had never been changed; that wetlands flags had been added on site and the plans revised accordingly, but the same activities were proposed. 3) Atty. Williams said there was no basis for the claim that the public was disenfranchised. He noted the public hearing had been properly noticed and the public had been allowed to speak even prior to the start of the hearing. 4) Atty. Williams stated there had been no "subtle discrimination" against the interveners because everyone, not just the interveners, had been asked to get material in a week before the hearing so there would be time for a proper review. 5) In response to the complaint that a cross section had not been submitted, Atty. Williams said that the Commission had not requested one and that it was not necessary for the review.

There were no questions from the commissioners at this time.

Atty. Marcus said he wasn't clear on exactly what was before the Commission and he read part of the 10/6/11 letter, which accompanied the application form. He said it asked the Commission to decide if the proposed activities were subject to review or not. He then referred to the 10/12/11 minutes and said it was at this point that he suggested his clients petition the Commission to hold a hearing to consider whether a permit was required or not. He said it was not until the first session of the hearing that the applicant said it was seeking a permit. Atty. Marcus complained that the applicant had been able to submit a "revised application" on 12/13, but that the neighbors had not been provided the opportunity to comment on it by that date. He also complained the application process was being rushed and said the information submitted to date was insufficient to meet the requirements of the IW Regulations. He noted Mr. Logan's environmental review for the interveners was more detailed than was Mr. Allan's for the Commission. He suggested the Commission consider what is really proposed and examine the environmental impacts in depth, and if it finds there will be likely impacts to the area wetlands and watercourses and to the Shepaug River, it should require the applicant to consider feasible and prudent alternatives.

Atty. Olson explained the Commission was not rushing the application process but was complying with the state statutes.

Atty. Marcus asked the Commission to deny the application without prejudice and then begin a proper review.

Mr. Logan, environmental consultant for the interveners, submitted his resume and Ms. Gadwa's. He then submitted his 1/11/12 letter to supplement his review of the proposed irrigation system and said there are two different irrigation systems on the record, and submitted his report, "Review of IPM Plan and Turf Plan Prepared (sic) by Lunan's Landscaping for The Gunnery School, 1-1-2012." He stated the proposed project was complicated and substantial and compared it to big box development. He stated 55,000 cubic yards of material would be moved on 11.5 acres. His review included the following points. 1) The wet area located between the two proposed fields was not a moderately drained soil type as had been determined by Mr. Beroz and Mr. Allan, but was a wetland. 2) He referred to figure #4 in his 1/10/12 letter to Atty. Marcus and said the proposed drainage system would divert 48% of the water that now flows to the western hillside seepage wetland. 3) There is a well proposed in this same watershed that could contribute further to the dewatering of the down grade wetlands. 4) A "good" estimate of the amount of material to be trucked in and off the site had not been provided. Mr. Logan said the applicant claims this will balance out, but he thought that since a lot of the land was not suitable to use as fill, a lot of material

would have to be brought in. He said cross sections were needed to verify the exact amount of the cuts and fills. He also claimed the applicant would have to truck in a large amount of sand with which to construct the fields if they were to drain properly. 5) Mr. Logan said the 14 ft. of rock to be removed at the far end of the turn around would require blasting and that the blasted rock would not be suitable to use as fill. 5) Mr. Logan said the 12/9/11 drainage report contained summary information and incorrect soil info that had not been field verified. 6) He stated that the plans did not conform to the 2002 Ct. Erosion and Sedimentation Guidelines of the 2004 DEEP Stormwater Quality Manual. 7) In Mr. Logan's view there was too much development proposed for a site with such problem soils and slopes and that this would result in the destruction of natural resources.

Ms. Gadwa agreed this was an extreme site and that the wet areas Mr. Logan spoke about were, indeed, wetlands. She spoke about the universal soil loss equation. She stated that the construction traffic using the existing driveway and the loose material, fuel, and noise it would generate would impact the western wetlands and wildlife. She noted that the impacts to the down grade stream on the northeast side of the property had been detailed in the 1/10/12 report and added that its habitats would be degraded even post construction. She also noted the high quality of the Shepaug River and its biodiversity and said the applicant would have to go well beyond the average erosion and sedimentation control measures to avoid impacting them. Ms. Gadwa was also concerned that the turf and pesticide management plans were not adequate.

Mr. LaMuniere noted that the Commission had just received the interveners' submissions and so would not have questions until it had time to review them and to receive Mr. Allan's response.

Mr. Ajello asked if the diversion of water from the down slope wetlands might be offset by the decrease in transpiration once all the trees are cut. Mr. Logan stated this might be so for the wetland areas not located near the level spreaders, which he thought would not distribute the water adequately and would change the existing drainage patterns.

Questions and comments were taken from the public.

Mrs. Frank, Conservation Commission, stated that Commission had voiced its concerns in its 12/13/11 letter and added that the visual impact from Rt. 47 was another concern. Atty. Olson responded that this was not under the Commission's jurisdiction. Mrs. Frank noted there would be a lot of clearing in the northeast corner of the property and asked if evergreens could be planted to help stabilize the soil on the slopes. She also asked if the IWC would have its own engineer to oversee the work to make sure the plans would be carried out as approved. Mr. Bedini responded that if the application was approved, that would be a condition.

Mr. Piscuskas, Painter Ridge Road, thought The Gunnery was misleading the public. He said the soil information was not accurate and that because the project was so huge and would change the landscape of Washington if it was approved, it should be denied.

Mr. Swain, South Street, noted he was a down hill abutter. He said the experts disagree on the site conditions and he did not think it was likely that the construction could be undertaken without problems. He was worried that the site work would impact his well and that The Gunnery would not be held accountable. He urged the Commission to deny the application and asked The Gunnery to consider locating the fields on one of the other properties it owns but has not yet thoroughly investigated.

Ms. Zelenko, Painter Ridge Road, stated that since the first presentation, the “game plan” had changed. She said the DEEP had recommended Mr. Logan who had presented an unbiased report on the adverse impacts the project would have on aesthetics, the environment, neighboring wells, wetlands and streams, and the Shepaug River. She stated that blasting of the site would be required. She complained that she had asked several times for sectional elevations, but the applicant had not provided them. She asked the Commission to deny the application because there were alternative locations available.

Mrs. Buonaiuto, Shearer Road, asked how many trees would be cut. Mr. Logan estimated 5,000 to 6,000. Mrs. Buonaiuto noted that all of the stumps would have to be removed and fill brought in to fill the holes. Mr. Smith responded that this had already been taken into consideration by the applicant when stating the cuts and fills would be evenly distributed on site. Mrs. Buonaiuto asked why an A2 survey was not required. Mr. Smith responded that the south and west boundary lines closest to the work area were done to A2 standards, but the other boundaries were over 300 ft. away so they were done to T3 standards. He said he would supply the other boundary lines to A2 standards if the Commission wanted him to do so. Atty. Olson said while an A2 survey might be a Zoning requirement, it was not required by the IWC. Mrs. Buonaiuto asked how close the proposed level spreaders were to the existing ponds. She noted there are times when Rt. 47 almost floods and so she thought the DOT should review the plan. Mr. Smith stated that one level spreader would be 400 ft. to the northwest corner of the pond and the other was more than 600 ft. away.

Mr. Kiiffner, South Street, read his letter dated 1/9/12 in which he stated that the proposal would not protect the environment and would cause lasting environmental damage.

Mrs. Crumrine, South Street, said because the project was so large and Mr. Logan had such serious concerns about it, if the Commission approved the application, it had to ensure the work was done properly. She asked who would be responsible for making sure this was done. Mr. Bedini explained that in addition to the Wetlands Enforcement Officer, as a condition of approval for other large projects, the Commission had required a consulting engineer to make sure the approved plans were implemented and to inspect the erosion and sedimentation controls. Mrs. Crumrine stated that cutting 12 acres of forest would irrevocably change the hillside and she wanted to know what would happen if there were problems that could not be fixed. She asked if the public could be made aware of the safeguards that would be taken. Mr. Bedini said the public would know what safeguards would be taken and, if approved, the erosion and sedimentation controls would be checked continually. Mrs. Crumrine said the neighbors were concerned about the possible contamination of their wells, some of which were hand dug. She asked what The Gunnery would do to protect these wells.

Mr. Swain said he understood the project would be monitored during construction, but noted there could be unintended consequences. He thought the project was so complicated that it should not be started.

Atty. Williams questioned Mr. Logan, who, he said, was a soil scientist, not a licensed engineer, and who had trespassed on The Gunnery property to research his report. In response to questions from Atty. Williams, Mr. Logan stated that while the applicant’s consultants were reputable, he thought perhaps they had not done as careful a report as they could have. Atty. Williams stated that neither Mr. Logan nor Ms. Gadwa was a licensed engineer, and that the interveners had not hired a licensed engineer to review the application. He said there were two licensed engineers and two certified soil scientists with a combined 102 years of experience who found that the plans would

cause no adverse impact to the wetlands and watercourses and he asked Mr. Logan if they were wrong. Mr. Logan said they were wrong, and that even Mr. Allan, the Commission's unbiased consultant, was wrong because he had done only cursory work compared to his report. Mr. Logan said he was glad to see the turf management plan and generally thought the level spreaders were a good idea, but that there were many issues apparent when the details of the plan were reviewed.

Atty. Williams stated that the application was not being rushed as Atty. Marcus claimed, but said given the late submissions by the intervener the applicant would agree to a continuation of the hearing to February 8 and would submit all materials at least a week before that date. He submitted a written request for the extension.

MOTION:

To continue the Public Hearing to consider Application #IW-11-40 submitted by The Gunnery, Inc. for athletic fields at 22 South Street to February 8, 2012 at 5:00 p.m. in the Land Use Meeting Room, Bryan Memorial Town Hall.

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

At 6:56 p.m. Mr. Bedini continued the public hearing to February 8, 2012 at 5:00 p.m. in the Land Use Meeting Room, Bryan Memorial Town Hall.

REGULAR MEETING

Mr. Bedini called the Meeting to order at 7:08 p.m. and seated Members Bedini, Hill, LaMunier, and Wadelton and Alternate Papsin for Mr. Bohan.

MOTION:

To add the following subsequent business to the agenda:

III. Consideration of the Minutes:

C. 12/20/11/The Gunnery/site inspection minutes and VIII. Administrative Business:

A. Revision of 2012 Calendar.

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

Consideration of the Minutes

The 12/13/11 Special Meeting minutes were accepted as corrected.

Page 1: Heading: "Public Hearing" was added.

Page 1: Paragraph 4: Change "Mrs. Hill" to "Mrs. J. Hill."

MOTION:

To accept the 12/13/11 Public Hearing minutes as corrected.

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

MOTION:

To accept the 12/14/11 Regular Meeting minutes as written.

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

The 12/20/11 Smith site inspection minutes were accepted as corrected. It was noted the correct spelling is Brian Neff.

MOTION:

To accept the 12/20/11 The Gunnery site inspection minutes as corrected.

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

Pending Applications

The Gunnery School, Inc./22 South Street/#IW-11-40/Athletic Fields:

It was noted the public hearing had been continued to February 8th at 5:00 p.m. in the Land Use Meeting Room.

Herman/74 West Morris Road/#IW-11-45/Site Improvements:

It was noted the fines for the violation had not yet been paid. Mr. Ajello explained there had been a violation because work had been done without a permit and a notice of violation had been sent. A restoration order had not been issued because it could not be determined that there had been a direct adverse impact on the wetlands. An application to correct the violation had been submitted. The map, "Soil Erosion and Sediment Control Plan," by Mr. Neff, dated 12/8/11 was reviewed. Atty. Olson said the Commission could table action until the next meeting because the citation had not been paid and it was the consensus of the commissioners to do so. Regarding the pillars that had been erected in the Town right of way, Atty. Olson advised that a notice should be placed on the Land Records that the Town will let the pillars remain, but the property owner will be responsible for the cost of any repairs needed in the future. Mr. Ajello said this should be done by the Selectmen. Mrs. Hill did not think the issues associated with the citation should be "tangled" with those of the application since citations are issued per Town Ordinance, while applications are processed under the IWC Regulations and the state statutes.

Smith/22 Parsonage Lane/#IW-11-48/Renovations, Addition to Existing Dwelling, Install Drainage System:

Mr. Neff submitted a letter dated 1/11/12 and drainage plans revised to 1/5/12. He explained the drainage system had been divided into two sections. All roof drains and foundation drainage will be tied together and the driveway and yard drainage will flow separately to a catch basin and then through a 4 inch pipe to the proposed rain garden. He said that additional soil testing had been done and as a result of finding shallow groundwater, the dry wells had been relocated and they had also been enlarged. They will be 30 inch units placed in areas where the groundwater level is down 7 ft. and will be installed at least 4 ft. above the water table. He pointed out a bioswale proposed in the southeast end of the property into which a small amount of water would drain from an area approximately 150 sq. ft. in size. He said this was a more linear design than a rain garden and also would allow the runoff to infiltrate. He pointed out that currently there is no drainage system and no detention of runoff on site, whereas after the installation of the new system, the majority of the runoff will infiltrate, the flow of water to the neighbor's wetlands will be reduced, and post construction runoff will be reduced from what it is now. He noted the proposed driveway would be pervious gravel and the drainage area of the rain garden would be 500 to 600 sq. ft. Mr. LaMunier pointed out that because the ground is saturated, the rain garden would have to be significantly above the water table in order to function. Mr. Neff said it would be 1 ft. above the water table. Mr. Bedini asked how the rain garden would impact the wetlands. Mr. Neff said it would have no impact

because the size of the area draining into the rain garden had been decreased and most of the upland runoff would be directed to the dry wells. Mr. Neff explained the driveway was at too low an elevation to direct its runoff to a dry well, but that the amount of water that would flow into the rain garden had been reduced as much as possible. Mr. Neff noted he had added to the sequence of construction the installation of two geothermal wells with silt fencing and sediments basins below them during the drilling.

Mr. Sabin, landscape architect, stated that the quality of the wetlands has been “nil” for decades and he showed photos of the water collecting in the low portion of the mowed lawn. He said the area was so wet due to the increased amount of rain this year. He stated the old garage would be removed and restored with a rain garden and a functioning wetland meadow would be created with native wetlands plants around its perimeter. This wetland would accommodate the increased runoff from the driveway for a 4 inch storm event. He said the proposal would not only restore the wetland, but would improve it. Mr. LaMuniere said it was important that the driveway remain gravel to maintain its permeability.

Mr. Ajello asked if the amount of proposed walls and fill had been reduced. Mr. Sabin submitted the 1/11/12 design sketch to show the issue of retaining walls could be addressed with grading and by placing boulders and plantings to form an undulating boulder wall. He noted the distance to the property line did not change, but how the grading would be dealt with did change. He pointed out proposed plantings on a colored landscaping plan. Ms. Caroe, adjoining neighbor, disagreed with Mr. Sabin, saying the Caroe property has been “soaking wet” for 46 years. She said there was water in their basement all of the time and she worried that the proposed work would direct more water towards it. Mr. Caroe also noted how wet his basement is.

Mr. Sabin responded that the Caroe house is not downgrade of the Smith’s.

Mr. Gagnon, engineer for the Caroes, submitted his letter dated 1/11/12 and noted the plans submitted this evening had not been available for him to review. He said the 12/8/11 plans did not include test pits, which he thought were required. He said the infiltration of stormwater runoff to the north of the house could contribute to the ground saturation and impact the Caroe house. He said many of his concerns had been addressed, but noted 1) the temporary stockpile in the upland review area should be relocated, 2) the location of the septic system and the design of the leaching fields were needed so it could be determined whether separation distance requirements had been met, 3) increased flow to the wetlands could cause flooding issues, 4) jogs in the pipes could cause clogging, and 5) more grading information should be provided.

Mr. Neff said there was a septic design by the septic installer and the setbacks had been verified. He said the septic system was more than 50 ft. from the proposed activities.

Since the revised plans had just been submitted and Mr. Gagnon had not had an opportunity to review them for the Caroes, it was the consensus of the commissioners that to be fair, they would wait until the next meeting to act on the application.

Mr. Sabin objected, saying the consulting engineer had indicated that many of his concerns had been addressed and that he and Mr. Neff were well known to the Commission.

Atty. Olson stated the Commission has the obligation to review all of the materials presented. She noted that both the commissioners and the neighbors were concerned about flooding and so

thought it was important to make sure these concerns were addressed. Mr. LaMuniere stated the Commission did not want the flow of water off site to increase, said the water table in the rain garden was very important, and noted the site had been very wet at the time of the site inspection.

Mr. Smith said the 1890's drainage system in this area had broken down and so flooding in the Caroe's basement was not the Smith's problem.

Mr. Caroe stated there was no question that water backs up onto his property causing major ponding. He said the plans had not been submitted in time for his engineer to review them to make sure the proposed activities would not make the problem worse.

Mrs. Smith asked how a delay in acting on the IW application would impact the Smith's ZBA application. Atty. Olson stated the two were not related.

A brief discussion followed in which each of the commissioners expressed his opinion regarding whether action should be tabled to the next meeting.

MOTION:

To continue consideration of Application #IW-11-48 submitted by Mr. and Mrs. Smith for renovation of and addition to the existing dwelling, extension of driveway, and installation of a drainage system at 22 Parsonage Lane to the next meeting.

By Mr. Wadelton, seconded by Mrs. Hill, and passed 4-1. Mr. LaMuniere voted no because he did not think that a second review by the neighbor's engineer would result in significant revisions to the plan.

Underwood/99 Blackville Road/#IW-11-49/Clean Out Watercourse:

It was noted that at the last meeting the applicants had been told they could proceed with the emergency clean out of the watercourse so that the work could be completed before the ground froze.

MOTION:

To approve Application #IW-11-49 submitted by Mrs. Underwood to clean out the watercourse at 99 Blackville Road per the plan entitled, "Proposed Cleaning of Intermittent Watercourse," dated 12/7/11; the permit shall be valid for 9 years and is subject to the following conditions:

1. that the Land Use Office be notified at least 48 hours prior to the commencement of work so the WEO can inspect and approve the erosion control measures,
2. that the property owner give the contractor copies of both the motion of approval and approved plans prior to the commencement of work, and
3. any change to the plans as approved must be submitted immediately to the Commission for reapproval.

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

New Application

Ingrassia/143 East Shore Road/#IW-12-01/Demolish, Rebuild Dwelling and Accessory Building:

The applicant was not present. The application was accepted and will be discussed at the next meeting.

Other Business

Wykeham Rise, LLC./101 Wykeham Road/Request to Amend Approved Plans-#IW-08-31:

Mr. Szymanski, engineer, said he understood all changes to approved plans had to be approved by the Commission and he noted that all of the proposed changes were listed in his letter to Mrs. J. Hill dated 1/6/12. Sheet OSD.1, by Arthur H. Howland and Assoc., revised to 1/4/12, was reviewed. Mr. Szymanski briefly described the changes proposed. Mr. LaMuniere asked what a bituminous cape cod curb was. Mr. Szymanski pointed out the specifications on Sheet D.2, revised to 1/4/12. Mr. Wadelton said he saw no wetlands issues in the proposed changes. Mr. Ajello stated that he had reviewed the plans and had found no potential wetlands impacts. Ms. Purnell asked if the Commission was formally receiving the request tonight. Mr. Bedini said it was. Mr. Ajello asked for an additional set of the final plans for the Wetlands file.

MOTION:

To approve the request by Wykeham Rise, LLC. to amend Permit #IW-08-31 for a school at 101 Wykeham Road per the plans amended to 1/4/12.

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

Enforcement Report

Bol/44 Slaughterhouse Road:

Mr. Ajello reported that a revised application would soon be submitted for the complete demolition and reconstruction of the dwelling.

Griffin/199 West Shore Road:

The repairs to the wall and abutment have been completed and the debris has been removed from the lake.

The Gunnery, Inc./22 South Street:

Mr. Ajello said he would look into the DEEP requirements for stormwater discharge permits.

Herman/74 West Morris Road:

Mr. Ajello will find out whether the Commission can deny this application if the fine is not paid, noting there are no wetlands impacts.

Lanyi/105 West Shore Road:

The catch basin must be cleaned out before the final sign off.

Oberndorf/151 West Shore Road:

The project is almost completed; the only work remaining is to complete the planting.

Town of Washington Park and Rec. Commission/11 School Street:

Mr. Ajello circulated photos of the stockpile of clay to be used on Ted Alex Field in the spring. Due to the recent storms, the material was washing down towards a catch basin in the new drainage system. The pile has since been covered with a tarp and hay bales were placed around it. Mr. Ajello noted this was the second time this year that Park and Rec. had not applied to the IWC for a regulated activity.

Administrative Business

2012 Calendar:

The commissioners decided the second meeting in November should be held on the normal day; the fourth Wednesday. Also, they did not schedule extra meetings for the summer months, saying that special meetings could be scheduled later if needed.

MOTION:

To revise the 2012 calendar to change the second meeting in November to 11/28, the fourth Wednesday of the month.

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

Communications

The 12/27/11 letter from Atty. Olson to Ms. Matteo regarding Ms. Matteo's request for reimbursement of her application fee and engineer's invoice was read and will be put in her file.

MOTION:

To adjourn the Meeting. By Mrs. Hill.

Mr. Bedini adjourned the Meeting at 9:12 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill, Land Use Administrator