

March 11, 2009

Regular Meeting

7:00 p.m., Land Use Meeting Room

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

ALTERNATE PRESENT: Mr. Bohan

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

ALSO PRESENT: Ms. Cheney, Mrs. Cheney, Mr. Klauer, Mr. Johnson, Mr. Corbo, Mr. Charles, Press

REGULAR MEETING

Mr. Bedini called the Meeting to order at 7:02 p.m. and seated Members Bedini, Hill, LaMuniere, and Wadelton and Alternate Bohan. He noted that consideration of the 3/10/09 Site Inspection minutes would be added to the agenda.

Consideration of the Minutes

MOTION: To accept the 2/18/09 Special Meeting minutes as written. By Mrs. D. Hill, seconded by Mr. Wadelton, and passed 5-0.

MOTION: To accept the 2/25/09 Regular Meeting minutes as written. By Mr. Bedini, seconded by Mr. Wadelton, and passed 4-0-1. Mrs. D. Hill abstained.

MOTION: To accept the 2/10/09 Site Inspection minutes as written. By Mr. LaMuniere, seconded by Mr. Bedini, and passed 4-0-1. Mrs. D. Hill abstained because she had not attended the site inspection.

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

New Application

Eaton/284 West Shore Road/#IW-09-04/Reconstruct Shoreline Wall:

Mr. Johnson, contractor, noted he had rebuilt half of this wall in 2006 and now proposed to complete the remaining 85 feet in the same way. He reviewed the cross section and the construction sequence. The collapsing wall would be reconstructed on the existing base, rebar put down into the foundation, and the existing stones used. He proposed to make the rebuilt wall 3 ft. wide at the base and taper it to 20 inches wide at the top. He said the height of the wall would not increase. Mr. Johnson explained that he would work on 25 ft. sections at a time and that he had a system using staked plywood and piled sandbags to keep the wave action off the work area. He circulated a photo of the existing wall. It was noted the existing wall extends along the entire length of the shoreline. Mr. Johnson said the trees near the wall at the corner of the property would not be disturbed. Mr. Bedini asked if there would be backfill to the top of the wall. Mr. Johnson said that 6 inch rip rap would come up to approximately 6 inches of the top. He also noted that the wall could have pipes 2 ft. above the water level, the rip rap would be encased in landscaping cloth, and the disturbed area behind the wall would be top soiled and grassed. Several commissioners noted that the Commission does not encourage boundary to boundary shoreline walls, that there were environmental benefits to leaving sections of the shoreline in a natural state, and that they would rather see rip rap installed as there was already a long section of existing wall. Mr. Johnson said the owners were not interested in installing rip rap. Mr. Bedini suggested that half of the remaining wall could be rebuilt and the remaining section returned to natural conditions. Mr. LaMuniere noted there was an existing wall and thought the Commission might be sued if it did not permit the entire length to be rebuilt. Mr. Bedini said he would research this issue before the next meeting.

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

Mr. Clark, engineer, reviewed the site plan, "Driveway Construction," by Oakwood Environmental Assoc., dated 2/10/09, which had been presented at the last meeting. He said he hoped to begin work in early spring and to complete it within three weeks once started. Mr. Bohan suggested that it would make sense to install the utility conduits when the driveway was constructed so the wetlands would not be disturbed twice. Mr. Clark said one 4" and three 2" conduits extending 40 feet on either side could be installed now rather than waiting until a dwelling was constructed. Mr. LaMunier stated that any future site development within 100 feet of wetlands would have to be approved by the Commission. Mrs. D. Hill noted the permit would be good for two years.

MOTION: To approve Application #IW-09-03 submitted by Kinney Hill Properties, LLC. to construct a driveway at 27 Kinney Hill Road subject to the following conditions: 1. one 4" and three 2" utility conduits shall be installed at the time the driveway is installed and shall extend 40 ft. from either side, and 2. duration of the permit is 2 years. By Mr. LaMunier, seconded by Mr. Wadleton, and passed 5-0.

Pending Application

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

It was noted that the proposed road would have to be approved by the Board of Selectmen and that Mr. Smith, Highway Dept., had briefly reviewed the plans. Regarding who should require a performance bond for the road, Atty. Zizka had advised the Commission that nothing would prevent the different boards from requiring separate bonds to cover their separate areas of concern; the Selectmen can bond the quality of the road construction, while the Commission can bond for wetlands protection and stabilization of the site. The draft conditions of approval by Milone and MacBroom and Mrs. J. Hill were reviewed and revised. A \$30,000 performance bond was agreed upon for the roadway and basin construction and a \$15,000 bond will be required for the stormwater basin planting, invasive species removal, and post construction stormwater basin monitoring by a wetland scientist. It was also agreed that the walking trail would be removed from the plans. Several conditions recommended by Mr. Bernard in his letter dated 2/24/09 were considered, but because they dealt mainly with the monitoring of the quality of drinking water, it was noted they would be under the Health Department's jurisdiction. Mrs. J. Hill will circulate the revised motion and the Commission will act on the application at the next meeting.

Enforcement

Corbo Associates, Inc./40 Nettleton Road/Activity Outside Approved Limits of Disturbance:

The 3/11/09 WEO Report was reviewed and Mr. Ajello presented photos of the disturbed area on the adjoining Ranieri property. Mr. Corbo stated that he had gotten permission from Mr. Ranieri to use his property to access the work site, had notified the EO that work was going to begin, and had installed erosion controls as soon as he had been ordered to and he apologized to the Commission. Mr. Ajello stated that Mr. Corbo should have come to the Commission for a revision of his permit, but noted the erosion controls had been installed before there had been any damage to the wetlands. Mr. Charles, who had reported the violation, said he thought this violation was an indication that the Commission has a significant communication problem about its requirements. He also pointed out that the logging contractor had not stopped work when the EO had told him to and that there were often difficulties with loggers operating in and near wetlands. He hoped the Commission would learn to regulate loggers more effectively. It was the consensus to issue Mr. Corbo the minimum citation as the unauthorized activity was not in wetlands and did not have an adverse impact.

Myfield, LLC./Mygatt Road:

Mr. Ajello said the balance of the consultant's bond would soon be returned to the applicant.

Harris/258 New Milford Turnpike:

Mr. Ajello said that Mr. Harris plans to take concrete pieces out of the Aspetuck River, armor the uneven riverbank, and do some planting. Mrs. J. Hill and Mrs. D. Hill noted that buffer planting should be stressed and that care should be taken not to channelize the stream as had been done on the Rosen property. Mr. Bedini asked that Mr. Harris submit detailed plans about the proposed work.

Administrative Business

Washington Montessori School/240 New Milford Turnpike/Bond:

Mr. Ajello recommended the \$25,000 bond be returned as the school's five year permit had expired several years ago and he did not think it had been renewed. He thought possibly all of the required water testing had not been done and that a vernal pool may not have been restored. Before returning the bond Mrs. D. Hill wanted to thoroughly review the file to determine if there was required work that had not been completed. Mr. Bedini thought the Commission should have required any necessary work while the permit was in effect. Mr. LaMunier asked if the detention basin was clean and functioning and if all disturbed slopes had been stabilized. Mr. Ajello said they were.

MOTION: To return the unused portion of the Montessori School performance bond. By Mr. Bedini, seconded by Mr. LaMunier, and passed 4-1.

Mrs. D. Hill voted No because she thought the file should be thoroughly reviewed for compliance before the remainder of the bond was released.

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

Mr. Bedini handed out the document, "Shoreline Landscaping for Residential Use and Ecological Integrity – Some Principles," by Dr. Kortmann, no date. He noted that the Commission receives many applications for shoreline walls, but said according to the information presented by Dr. Kortmann, this was not a good idea and the walls should be limited. He asked the Commissioners to read the material and to think about drafting policies or regulations to address this problem. There was disagreement among the commissioners about whether guidelines would be adequate or whether regulations should be implemented. Mr. LaMunier thought regulations were needed, while Mrs. D. Hill thought this issue could be addressed under the existing Regulations. The question of what percentage of shoreline should be allowed to be walled was discussed. Mr. LaMunier said any decision should be based on ecological factors and the impacts to the natural environment. He recommended that Atty. Zizka be consulted to find out whether such guidelines should be incorporated into the regs and if so, what would be the best way to accomplish it. Mr. Ajello did not think so much time should be spent on this as 99% of the lake shore was already built out. He recommended that buffers be encouraged along the shoreline. Mr. Bedini said this matter would be discussed again at the next meeting and that in the future, a Special Meeting with Mr. McGowan and Dr. Kortmann would be held.

Applicant's Guide to Completing and Processing an Application for an Inland Wetlands Permit:

Mr. Ajello said he had reviewed this document and had found only a couple of points that needed to be updated. He thought the Guide was helpful to applicants. Mr. Bedini asked the commissioners to review it before deciding whether or not to put it back on the website.

Communications

The 2/24/09 notice from the Ct. DEP regarding the discharge elimination system permit for Lake Waramaug was noted and briefly discussed.

Mrs. J. Hill passed out the responses from Atty. Zizka to the general questions the Commission had raised at the last meeting about the mediation process. The sheet was dated 2/26/09. A discussion about mediation followed and when it became too specific about the Wykeham Rise, LLC. appeal, the commissioners voted to go into Executive Session.

MOTION: To go into Executive Session at 9:50 p.m. to discuss pending litigation/mediation for

Wykeham Rise, LLC/101 Wykeham Road. By Mrs. Hill, seconded by Mr. Bedini, and passed 5-0.

MOTION: To end Executive Session at 10:12 p.m. By Mrs. Hill, seconded by Mr. Bedini, and passed 5-0.

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

FILED SUBJECT TO APPROVAL

Respectfully submitted,
By Janet M. Hill
Land Use Administrator