

## March 25, 2009

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

**MEMBERS PRESENT:** Mr. Bedini, Mr. Bohan, Mr. LaMuniere, Mr. Wadelton

**MEMBER ABSENT:** Mrs. D. Hill

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

**ALSO PRESENT:** Mr. and Mrs. Wright, Mr. Branson, Mr. Johnson, Mr. Klauer, Mr. Z. Koerner, Mr. C. Koerner

Mr. Bedini called the Meeting to order at 7:00 p.m. and seated Members Bedini, Bohan, LaMuniere, and Wadelton.

**MOTION:** To include subsequent business not already posted on the agenda: V. New Application, C. Shepaug Valley Regional School Dist. #12/159 South Street/#IW-09-07/Clear Brush, Construct Bridge. By Mr. Wadelton, seconded by Mr. Bedini, and passed 4-0.

### Consideration of the Minutes

**MOTION:** To accept the 3/11/09 Regular Meeting minutes as written. By Mr. LaMuniere, seconded by Mr. Bedini, and passed 4-0.

### Pending Applications

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

It was noted that a draft motion for approval with conditions had been previously discussed and that the revised draft motion reflected the comments made at the last meeting. Mr. Bedini read the motion for the record.

**MOTION:** To approve Application #IW-08-57 submitted by Washington Partners, LLC. for a 9 Lot Affordable Housing Subdivision at 108 New Milford Turnpike per the plans, "Pond View Estates at Washington," 15 sheets, by CCA, revised to 2/13/09, subject to the following conditions:

1. A performance bond of \$30,000 shall be posted for the roadway and basin construction (Phase I) prior to the issuance of the permit,
2. A performance bond of \$15,000 shall be posted for the stormwater basin planting, invasive species removal, and post construction stormwater basin monitoring by a wetland scientist (Phase II) prior to the issuance of the permit,
3. Japanese knotweed shall be removed prior to the commencement of construction of the roadway and the stormwater basin (Phase I), and suppression of regrowth shall be continued for a period of three years post construction,
4. All limits of disturbance shall be clearly marked in the field and the erosion and sedimentation control measures for Phase I shall be installed and both requirements approved by the WEO prior to the commencement of all clearing, grading activities, and/or site disturbance,
5. The applicant shall retain a professional engineer, who shall be agreed upon by the Commission, to complete erosion control inspections weekly and after rainfall events of one half inch or more during Phase I of the project; reports of these inspections shall be submitted to the Inland Wetlands and Watercourses Commission and to the WEO for review,
6. Prior to any site disturbance and/or construction on each of the lots in the subdivision, each individual lot owner/builder shall submit to the Inland Wetlands and Watercourses Commission a final site development plan and construction sequence for the Commission's approval and this requirement shall be noted on the final subdivision mylar to be filed on the Town Land Records,

7. This approval shall not include the proposed walking trail, which shall be removed from the final plan,

8. All conservation easement areas as shown on the site plans dated 2/13/09 shall be clearly demarcated in the field by the installation of conservation markers per Conservation Commission standards, and

9. A note shall be placed on the final subdivision mylar to be filed on the Town Land Records that the constructed rain gardens on each lot are an integral part of the required stormwater management system and shall not be relandscaped without prior approval by the Commission. By Mr. LaMuniere, seconded by Mr. Waderton, and passed 4-0.

It was noted later in the meeting that this was a 5 year permit.

Eaton/284 West Shore Road/#IW-09-04/Reconstruct Portion of Shoreline Stonewall:

Mr. Ajello circulated photos taken several years ago during the reconstruction of the first portion of the wall and of the condition of the wall before that time. The construction specifications submitted with the application were reviewed. Mr. LaMuniere noted that regardless of future policies the Commission might establish for the preservation of the natural shoreline around Lake Waramaug, this stonewall was existing and reconstruction of half of it had already been approved in 2006 so he did not see how the Commission could deny the application.

MOTION: To approve Application #IW-09-04 submitted by Eaton to reconstruct the remaining portion of the shoreline stonewall at 284 West Shore Road. By Mr. LaMuniere, seconded by Mr. Bohan, and passed 4-0.

It was noted later in the meeting that this was a 2 year permit.

**New Applications**

Wright/59 Kinney Hill Road/#IW-09-05/Construct Stonewalls:

Mr. Ajello presented photos of the existing site conditions. The untitled site plan and two undated sheets of specifications titled, "Natural Stonewall Front Yard," and "Retaining Wall Side of House" were reviewed. Mrs. Wright proposed a stonewall approximately 35 feet from the intermittent stream situated 10 ft. back from where the land begins to drop steeply towards the stream. She also pointed out an area along the side of the house where two retaining walls were proposed 82 feet from wetlands. Mr. Bedini asked if plants would be planted between the new walls and the wetlands. Mrs. Wright said there would be plantings on both sides of the wall. Mr. Ajello noted that a previous violation for unauthorized work along the intermittent stream had not been closed out because the required ground cover had not yet been established. Mr. Bohan asked if the intermittent stream ran only during storm events and Mr. and Mrs. Wright said that was so. Mr. and Mrs. Wright said the Regulations state that if it can be shown that proposed activities will have a minimum impact on wetlands and watercourses the application may be waived, and they asked for a ruling that an application was not necessary in this case. They did not want to have to wait 14 days for the Commission to act on the application as required by state statute because they wanted to begin work immediately. A lengthy discussion ensued. Mr. Bedini noted that on this property, however, there were very steep slopes down to the watercourses and that the plans did not include erosion and sedimentation control measures. He asked for written details of erosion control measures, noting there would be minimal impacts only if they were properly installed. It was the consensus of the Commission that applications for activities on steep slopes above wetlands were a standard requirement and that the Commission had to treat applicants in a consistent manner.

Steep Rock Assn./147 Sabbaday Lane/#IW-09-06E/Timber Harvest:

Mr. Branson, certified forester, represented Steep Rock. An aerial map indicating the areas to be cut was reviewed. Mr. Branson submitted a detailed forest management plan, "Timber Harvest Plan," dated 3/9/09 and explained that the goal of the timber harvest was to preserve biodiversity within Hidden Valley in general and to provide a habitat for bird species such as some of the warblers that are on the

endangered species list. It was noted that timber harvesting is considered an agricultural use as of right. Mr. LaMuniere said he had inspected the site, had found that the intermittent streams shown on the aerial map were out of the work areas, and said he did not think there would be any impacts to wetlands or watercourses. He also noted the plans called for the slash to be left on the ground. Mr. Branson confirmed this, adding that the stumps would be left in place. Mr. LaMuniere recommended that as many trees as possible be left along the intermittent streams and that those cut be felled away from the streams.

MOTION: To approve Application #IW-09-06E submitted by Steep Rock Assn. to cut mature trees in a 7.9 acre area and to clear another 5.9 acre section for the preservation of migratory bird habitat as an exemption and note that the work proposed will be good for the Washington environment. By Mr. LaMuniere, seconded by Mr. Wadeldon, and passed 4-0.

Shepaug Valley School District #12/159 South Street/#IW-09-07/ Construct Bridge, Clear Brush:

Zack Koerner, boy scout, and his father, Chris Koerner, presented a portion of a site plan on which the proposed work site had been indicated. Mr. Bedini asked if Mr. Z. Koerner had a letter of authorization from the school district, which is the owner of the property. When Mr. Z. Koerner said he did not, he was directed to get one. Zack proposed to clear "a lot" of land by cutting the brush to ground level or to a height the Commission would find acceptable in order to create a view of the track from the back of the school. He circulated photos of the existing multi flora rose bushes in this area and proposed to clear out the debris after the bushes were cut, dig up the roots by hand, and replace the plants with grass and hay mulch. Mr. LaMuniere asked if the entire watercourse was overgrown with invasives, and Zack said it was. Mr. LaMuniere suggested that the roses be cut again in the fall and herbicide applied at that time. He said a tight maintenance schedule would have to be carried out or the roses will reestablish themselves. Chris said he hoped the school would maintain this area. Zack reviewed his plans for the 16 ft. long X 4 ft. wide bridge to be constructed of pressure treated plywood. He said it would be constructed elsewhere and moved to the site. Mr. Bedini asked if pressure treated wood would be suitable for use over a watercourse. Zack responded that the bridge would be substantially above the brook so it would not constantly be in the water. Mr. Bedini asked how much weight the bridge would support and asked Zack to provide documentation that it would be safe. Chris asked if his son could begin the clearing immediately or at least cut the tops off the bushes because of the fast approaching deadline for completing the project. Mr. Bedini answered that the clearcutting of brush within 100 ft. of a wetland or watercourse is a regulated activity requiring a permit. Mr. LaMuniere agreed that all of the information requested should be submitted before approval is granted. Mr. Ajello asked that native plants beneficial to the wetland corridor be identified and not removed from the area when the rose bushes are cut. The use of pressure treated lumber was discussed again. Mr. LaMuniere and Mr. Bedini advised Zack to seal it off site away from wetlands, explaining that would minimize the amount of pollutants that would leach into the brook. Mr. Ajello recommended that a composite made of recycled materials be used for the deck and railings. Mr. Bedini also noted that Mrs. J. Hill had found that some of the required information had not been provided on the application form and so asked Zack to complete the form for the next meeting. In addition, he asked for plans for the ends of the bridge, details and location of the erosion control measures, and a revised written construction sequence. Mr. Ajello said he would inspect the site prior to the next meeting. Mr. Bedini asked that the areas proposed for clearing be marked.

**Enforcement**

Andersson/35-45 Gunn Hill Road:

Mr. Ajello said a final copy of the map had been received on 3/24 and that he would send it to Atty. Zizka, who would then meet with the judge and Atty. Fisher.

Rubler/240 Wykeham Road:

A \$10,000 bond is still being held because Mr. Rubler has not applied for the second driveway as required.

Corbo/Nettleton Hollow Road:

Mr. Corbo paid his fine.

Condon/Findley Road:

The multi flora roses were removed by hand and the debris will soon be taken off site.

Harris/258 New Milford Turnpike:

Mr. LaMuniere noted that Mr. Harris must apply to the Commission before removing any cement pieces or rocks from the river.

Slaymaker/17 Sunset Lane:

Mr. Ajello noted that he had not yet signed off on the house construction and that the Commission would hold the bond until the required restoration work had been successfully completed.

Wright/59 Scofield Hill Road:

This item will remain on the agenda until the hillside is stabilized with vegetation.

**Administrative Business**

“Applicant’s Guide to Completing and Processing an Application for an Inland Wetlands Permit”:

Mrs. J. Hill said she thought this was a worthwhile document to have on the website. She asked the commissioners to review a revised draft that would be discussed at the next meeting.

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

Mr. Bedini suggested that the next time an application is submitted for a new wall or to extend an existing wall along the shoreline that the Commission refer it to Dr. Kortmann for review and recommendations. Mr. LaMuniere thought the Commission should find additional ecological evidence to support the concept that limiting shoreline walls is good for the health of the lake and incorporate this in the Regulations. The length of wall that should be permitted on each property was considered. Mr. Bedini thought a percentage of the total lake frontage should be set, while Mr. Wadelton suggested 20% or 20 feet, whichever is greater. Mr. Ajello thought that each case should be considered on its own merits and that the Commission should wait for the results of the Brown court case before setting any policy. It was noted that rough, low, angled walls better preserve the shoreline than do high, smooth, perpendicular walls. It was agreed that the Commission would work slowly to develop a shoreline wall policy and would consult with both Land Tech and Dr. Kortmann as applications come in.

**Communications**

Mr. Ajello noted he had received a report from the state DEP on the 2005 municipal training program and a compilation of the information from the 2005 state activity reporting forms.

MOTION: To enter Executive Session at 8:58 p.m. to discuss pending litigation: Brown, Howard, Andersson, and Federer/Wykeham Rise. By Mr. Bedini, seconded by Mr. Wadelton, and passed 5-0.

MOTION: To exit Executive Session at 9:10 p.m. By Mr. Bedini, seconded by Mr. LaMuniere, and passed 4-0.

MOTION: To accept the mediator recommended by Atty. Zizka for the Federer and Wykeham Rise appeals and to notify Atty. Zizka that the IWC has no objection to Mrs. Peacocke being granted intervenor status. By Mr. Wadelton, seconded by Mr. Bedini, and passed 3-0-1. Mr. LaMuniere abstained because he questioned whether it was too late in the litigation process for a person to apply to be an intervenor.

MOTION: To adjourn the meeting. By Mr. Wadelton.

Mr. Bedini adjourned the meeting at 9:17 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,  
Janet M. Hill  
Land Use Administrator