

# **May 13, 2009**

## **Show Cause Hearing – Regular Meeting**

6:30 p.m., Land Use Meeting Room

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

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

**ALSO PRESENT:** Mr. Allan, Mr. Neff, Ms. Facey, Mr. Solley

## **SHOW CAUSE HEARING**

Brose/213 Roxbury Road/#IW-08-V5/Unauthorized Clearcutting, Structure

Mr. Bedini called the Hearing to order at 6:31 p.m. and seated Members Bedini, Bohan, Hill, LaMuniere, and Wadelton.

Mr. Ajello read the 5/6/09 letter from Mrs. Brose in which she stated she had hired Land Tech Consultants to evaluate the disturbance to the wetlands and develop a restoration plan for the site. Mr. Ajello noted that all work had stopped since the receipt of the cease and desist order and that Mrs. Brose would submit an application to correct the violation.

Representing Mrs. Brose, Mr. Allan of Land Tech stated that she did not dispute the enforcement order. He said that although he had, indeed, been retained to evaluate the damage done and prepare a restoration plan, he had nothing to present at this time. He said the plan would be ready by the June 10th meeting.

Mr. LaMuniere noted that in addition to the clearcutting, a structure had been built in the area beyond the limit of disturbance line (as had been approved in Permit #IW-05-56). He stated that because the Commission had instructed the applicant that there should be no activity on the slope and that the land in this area had to remain in its natural state, the unauthorized activities were a clear violation of the permit. He asked Mr. Allan to address the question of whether the new structures should be removed.

Mr. Bohan asked if erosion control measures had been installed. Mr. Allan said, no, because the soils had not been disturbed and there was no evidence of any erosion problems. Mrs. D. Hill noted for the record that Mrs. Brose did not dispute the cease and desist order.

**MOTION:** To close the Show Cause Hearing to consider whether the 5/4/09 enforcement order issued to Mrs. Brose at 213 Roxbury Road for #IW-08-V05: unauthorized structure and clearcutting should remain in effect. By Mrs. Hill, seconded by Mr. Wadelton, and passed 5-0.

Mr. Bedini closed the Show Cause Hearing at 6:40 p.m.

This show cause hearing was recorded on tape. The tape is on file in the Land Use Office, Bryan Memorial Town Hall, Washington Depot, Ct.

## **REGULAR MEETING**

### **Regular Business**

Mr. Bedini called the Meeting to order at 7:03 p.m. and seated Members Bedini, Bohan, Hill, LaMuniere, and Wadelton.

### **Consideration of the Minutes**

The 4/22/09 Regular Meeting minutes were accepted as corrected.

Page 1: Change: "Mrs." to "Ms." Purnell

Page 4: The spelling of Harrison was corrected.

Page 5: First line: Add: "benthics" to the list for which information will be collected.

Page 5: Brose: Line 12: Change: "...citation for \$500..." to: "...citation requiring payment of a \$500 fine..."

MOTION: To accept the 4/22/09 Regular Meeting minutes as corrected. By Mr. LaMunier, seconded by Mr. Bedini, and passed 5-0.

MOTION: To accept the 4/28/09 Facey site inspection minutes as written. By Mr. Bedini, seconded by Mr. LaMunier, and passed 5-0.

MOTION: To accept the 4/28/09 Harrison site inspection minutes as written. By Mrs. Hill, seconded by Mr. Bedini, and passed 5-0.

### **Pending Applications**

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

The applicant has decided not to pursue this permit. Mrs. J. Hill will write to him to ask for a letter of withdrawal.

Adams/233 West Shore Road/#IW-09-08/Tennis Court, Bio Retention, Stormwater Management:

The consultant's bond was paid and hopefully, Land Tech's review will be ready for the next meeting.

Wykeham Rise, LLC./101 Wykeham Road/#IW-09-09/Affordable Housing:

It was noted that Wykeham Rise, LLC. had 1) not yet posted the consultant's bond, 2) said it would do so by the June 10th meeting, and 3) had granted an extension so that the public hearing would not be scheduled until the July 8th meeting. It was also noted that revised plans had not yet been submitted. Mr. LaMunier stressed the importance of the Commission receiving Land Tech's report in time to review it prior to the start of the hearing.

Harrison/19 Kielwasser Road/#IW-09-10/Additions to Dwelling and Garage, Installation of Septic System:

Mr. Neff, engineer, noted there had been no revisions to the plan since the last meeting. The map, "Soil Erosion and Sediment Control Plan," by Mr. Neff, dated 4/7/09 was reviewed. Mr. LaMunier said he saw no problem with the application except to make sure the silt fence was properly installed prior to the start of work. Mr. Neff referred to the sequence of construction, which specified the erosion controls must be installed and inspected and approved by the WEO prior to the commencement of work. MOTION: To approve Application #IW-09-10 submitted by Mr. and Mrs. Harrison for additions to the dwelling and garage and septic system installation at 19 Kielwasser Road per the map, "Soil Erosion and Sediment Control Plan," by Mr. Neff, dated 4/7/09. By Mr. LaMunier, seconded by Mr. Waderton, and passed 4-0-1. Mr. Bohan abstained because he had not attended the site inspection. It was noted later in the meeting that this was a 2 year permit

Facey/151 Litchfield Turnpike/#IW-09-11/Addition to Existing Dwelling:

Ms. Facey initialed and dated the revisions to the site plan she had made since the last meeting. These included the location of silt fencing and a limit of disturbance line. She noted the proposed 20' X 30' addition and 8' X 8' breezeway would require piers every 8 feet for a total of 15 piers. She also stated that she had withdrawn her proposal for check dams in the stream. Mr. Bedini expressed his concern that work would be done behind the garage and advised Ms. Facey that if any work or the construction of a bridge was proposed there in the future, it would require another Inland Wetlands application. The pipe in the stream was discussed. Mr. LaMunier asked if it ever backed up and Ms. Facey responded it

did, but only a small amount in severe storms. Mrs. D. Hill pointed out an eroded section of an old stream channel and asked if water flowed through it during storms. Ms. Facey said she had not noticed any water in that area. Mr. Bedini stated that any future work in the stream or clean up or work within 100 feet of both sides of the stream would require a permit. Mr. LaMuniere noted that any such work could not increase the velocity of the stream. Mr. Ajello asked if the removal by hand of invasives along the stream would be allowed without a permit. When Ms. Facey said she would continually cut the invasives without pulling them up, she was told she would not need a permit because there would be no soil disturbance. Mr. Ajello asked if she would be permitted to remove the sediment at the pipe discharge by hand so it would not flush downstream. It was agreed to add this to the motion of approval. Also discussed was keeping construction equipment away from the stream and the wetlands. Mrs. J. Hill suggested the limit of disturbance line should be staked prior to the start of construction. It was noted this would be a 2 year permit. MOTION: To approve Application #IW-09-11 submitted by Ms. Facey for an addition to the existing dwelling at 151 Litchfield Turnpike subject to the following conditions: 1. all construction equipment shall be kept on the southwest side of the structure and there shall be no equipment between the addition and the stream and 2. the discharge end of the pipe in the stream shall be cleaned out by hand. By Mr. Bedini, seconded by Mr. Wadelton, and passed 5-0.

### **Enforcement**

#### Brose/213 Roxbury Road/#IW-08-V5/Unauthorized Clearcutting, Structure:

It was the consensus to keep the 5/4/09 enforcement order in effect until implementation of a remediation plan is completed. It was also agreed there was no reason to revise any of the terms in the order. MOTION: To keep in effect the 5/4/09 enforcement order issued to Mrs. Brose/213 Roxbury Road/ #IW-08-V5, for an unauthorized structure and clearcutting. By Mr. Bedini, seconded by Mr. Wadelton, and passed 5-0.

#### Andersson/35-45 Gunn Hill Road:

Atty. Zizka and Atty. Fisher will appear in court to finalize the terms of the agreement.

#### Town of Washington/Woodcreek Road:

Mr. Ajello stated that the work reported had been the Town maintaining its beaver deterrent mechanism, but Mrs. D. Hill said material had been excavated from the beaver pond. She asked where this material had been deposited. Mr. Bedini noted the Commission had previously informed the Town that it requires prior notification and/or an Inland Wetlands permit for work in and/or near wetlands and watercourses.

#### Rosen/304 Nettleton Hollow Road/#IW-08-V2/Unauthorized Stream Work and Clearing:

The 4/28/09 letter to Mr. Rosen from the Army Corps of Engineers was circulated.

#### Sheinfeld/Lower Church Hill Road:

Mrs. D. Hill noted that the easement on this property is the only one that the Inland Wetlands Commission is responsible for and asked if it had been inspected as required. Mr. Ajello said he would inspect it soon.

### **Privilege of the Floor**

#### Town of Washington/59 East Shore Road:

Mr. Solley, Selectman, submitted the "Project Summary" by Mr. Sabin, dated 1/31/08, with attached photo of the current view of the Lake Waramaug from the Flirtation Ave. intersection, sketch of the proposed improved scenic view of the lake, and "Final Conceptual Design," by Mr. Sabin, dated 1/15/08. He said the Town would soon submit an application that would include a site plan by Mr. Alex, engineering plans by Mr. Clark, and the landscaping plan by Mr. Sabin as well as architectural renderings of the beach house. The proposed activities will include the demolition and reconstruction

of the beach house, a change in the existing fence, reconfiguration of the parking area, a public right of way with removable dock, the restoration of an eroded portion of the shoreline and lawn, and drainage improvements. The commissioners questioned whether the right of way could be legally used by all Town residents or only by those nearby property owners entitled to permanent access rights. Mr. Bedini said the Commission would wait to schedule a site inspection until both the site plan and stormwater management plan have been submitted.

### **Administrative Business**

Mr. Ajello reported on the status of permits approved in 2007 and 2008. He noted the difficulty in closing out files since applicants sometimes don't submit start cards and rarely submit finish cards even though it states on the permit that this is required. Several possible solutions were discussed such as requiring a note in the sequence of construction to state that inspection and approval of erosion controls by the WEO prior to construction and submission of start and finish cards are required, stamping plans with these requirements when they are approved, making the submission of start and finish cards a condition of approval, and/or fining property owners who begin work before submitting start cards.

MOTION: To go into Executive Session to discuss the following pending litigation: 1) Howard, 2) Brown, 3) Federer. By Mr. Bedini, seconded by Mrs. Hill, and passed 5-0.

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

Executive Session was concluded at 9:16 p.m.

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

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

FILED SUBJECT TO APPROVAL

Respectfully submitted,  
Janet M. Hill  
Land Use Administrator