

## October 28, 2009

Public Hearing – Regular Meeting

5:00 – 6:30 p.m. and 7:30 p.m.

Land Use Meeting Room

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

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

**ALSO PRESENT:** Mr. Szymanski, Mr. Collum, Mrs. Friedman, Mrs. Solomon, Mr. Hileman, Ms. Purnell, Mr. Charles, Mr. Sonders, Mr. Dubuque, Mr. Lyon, Ms. Zinick, Mr. Lasar, Mr. Saharek, Mr. Swanson, Mr. Boling, Mr. Delancy

### PUBLIC HEARING

Wykeham Rise, LLC./101 Wykeham Road/#IW-09-39/Affordable Housing

Mr. Bedini called the Public Hearing to order at 5:04 p.m. and read the legal notice published in Voices on 10/17/09 and 10/24/09.

Mrs. Hill arrived at 5:07 p.m. Mr. Bedini seated Members Bedini, Bohan, Hill, LaMuniere, and Wadelton.

Mr. Bedini read the list of all of the documents in the file, noting that the previous application, #IW-09-23, was included in the current file.

Mr. Szymanski, engineer, submitted certified mailing receipts for the notification of property owners within two hundred feet of the site. The “Overall Site Development Plan,” Sheet OSD.1, by Arthur H. Howland and Assoc., revised to 10/6/09 was reviewed.

Mr. Szymanski noted the proposed affordable housing project would use most of the existing infrastructure. He briefly addressed the points raised in Land Tech’s 10/27/09 letter to the Commission. He noted the proposed regulated activities:

1) The existing tennis court near wetlands flags #13 and #8, #9, and #10 and the retaining wall on its downhill side will be removed, the area restored with natural vegetation, and buffer plantings put in along the stream. 2) At the request of Land Tech, a small area of wetlands will be regraded near wetland flag #14 where there is an eroded gully.

3) A few hundred square feet of pavement associated with existing buildings #4, and #6 will be removed.

4) Erosion controls will be placed near wet pond #1 and a level spreader constructed in the upland review area per request of Land Tech.

5) The existing accessway from Bell Hill Road will be top dressed.

6) Modified rip rap aprons will be added on the easterly downhill side of both existing outlet pipes.

7) A vegetated swale on the downhill side of wetland flag #65 and #66 will be installed.

He reviewed the outstanding comments from Land Tech’s 10/27/09 letter:

1) He agreed to revise the plans to include a temporary barrier fence to prevent wetlands disturbance in the vicinity of wetlands flags #65 and #66.

2) Regarding pond #1 and Pond #2, minor regrading will be added to provide vehicular access to both ponds.

3) He agreed to show the existing pipe from pond #2 on the east side of building #5 from the existing catch basin to the point where it discharges.

Mr. Szymanski stated now that he had the site inspection comments, he would submit a written

description of all of the proposed activities.

Mr. LaMuniere agreed with Land Tech that the plans must show the catch basin and the two discharge points above Kirby Brook, how the underground network of pipes is connected, and whether there are any other discharge points in order that the Commission understand how the site's drainage system functions. He also stated that to prevent further erosion at the southeaster corner of the tennis court, baffles should be installed or other measures should be taken to control the runoff velocity.

Mr. Szymanski said he was not adding any drainage flow to that area and so did not propose any improvements there, although he said he would consider some kind of mitigation in the vicinity of wetlands flag #3. Sheet #D.3 revised to 10/6/09 was reviewed and, the skimmer assemblies that would connect into the outlet control structures were noted.

Mr. LaMuniere stated that he had inspected the extremely steep embankment on the north side of the proposed tennis courts and had determined that silt fence, hay bales, or other erosion control measures must be installed and maintained until vegetation comes up through the erosion control blanket to prevent sediment from washing into the swale leading to wet pond #1. Mr. Szymanski agreed.

Mr. LaMuniere asked if there would be any changes to the construction sequence due to the latest revisions. Mr. Szymanski said the construction sequence was complete.

Mr. Bedini asked if the public had any questions about wetlands concerns.

Ms. Purnell asked if the public hearing would be continued. Mr. Bedini said it would because a final plan had not yet been submitted. Ms. Purnell said she would submit written comments.

It was the consensus to continue the hearing to November 10. Mr. Bedini asked Mr. Szymanski and Ms. Purnell to get their documents in three or four days ahead of time so there would be adequate time to review them.

#### **MOTION:**

To continue the Public Hearing to consider Application #IW-09-39 submitted by Wykeham Rise, LLC. for affordable housing at 101 Wykeham Road to Tuesday, 11/10/09 at 5:30 p.m. in the Land Use Meeting Room, Bryan Memorial Town Hall.

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

At 5:40 p.m. Mr. Bedini continued the Public Hearing per the above motion.

### **REGULAR MEETING**

Mr. Bedini called the Meeting to order at 7:30 p.m. and seated Members Bedini, Bohan, Hill, LaMuniere, and Wadelton.

#### **MOTION:**

To add the following subsequent business to the agenda:

#### **V. New Applications:**

A. Laus/22 Nichols Hill Road/#IW-09-45/2 Lot Subdivision and Site Development,

B. Saharek/220 Old Litchfield Road/ #IW-09-46E/Install Driveway, Remove Stumps, Plant Christmas Trees,

#### **VII. Enforcement:**

Q. Dubuque/231 Baldwin Hill Road/Unauthorized Clearing and Excavation/#IW-09-V02,

#### **VIII. Administrative Business:**

B. CACIWC Annual Meeting and Environmental Conference,

C. Discussion re: Authority to Issue Citations.

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

### **Consideration of the Minutes**

The 10/14/09 Regular Meeting minutes were accepted as corrected.

P. 5: Line 4: Change to Plumb "Hill" Road.

P. 6: Line 9: Change "problem with" to "problem when"

P. 7: Line 11: Change "series of swales" to "series of baffles"

MOTION:

To accept the 10/14/09 Regular Meeting minutes as corrected.

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

MOTION:

To accept the 10/20/09 Lloyd site inspection minutes as written.

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

MOTION:

To accept the 10/20/09 Potolsky site inspection minutes as written.

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

MOTION:

To accept the 10/27/09 Wykeham Rise, LLC. site inspection minutes as written.

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

### **Pending Applications**

#### Early/52 Carmel Hill Road/#IW-09-37/Renovate Existing Dwelling:

Ms. Zinick, agent, noted that she had submitted a more complete map since the last meeting and a statement that the upgrading of the service trench was no longer included in the application. The map, "Proposed Site Development Plan," by Mr. Neff, revised to 1/3/08 with handwritten notations by Ms. Zinick was reviewed. She explained a portion of the roof would be rebuilt, but the footprint of the house would not change and would remain 74 feet from the pond. She noted the limit of disturbance, the stockpile area, the location of the silt fence, and parking for workers on the existing driveway.

MOTION:

To approve as amended Application #IW-09-37 submitted by Ms. Early to renovate the dwelling at 52 Carmel Hill Road per the site development plan revised to 10/21/09 with the conditions that it is for the roof work only and that silt fencing will be installed.

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

#### Wykeham Rise, LLC./101 Wykeham Road/#IW-09-39/Affordable Housing:

The Public Hearing was continued to Tuesday, November 10, 2009 at 5:30 p.m. in the Land Use Meeting Room.

#### Town of Washington/Plumb Hill Road/#IW-09-41/Install Drainage System:

Mr. Lyon, First Selectman, said there had been no changes to the plans since the last meeting and that work had started on the installation of the catch basins and cross culverts at the end opposite the wetlands. It was the consensus that the application had previously been thoroughly discussed and there were no other questions.

MOTION: To approve Application #IW-09-41 submitted by the Town of Washington to install a drainage system on Plumb Hill Road per the plans, "Drainage Improvement, Town of Washington,

Plumb Hill Road,” by Lenard Engineering, Inc., dated 3/13/07.  
By Mr. LaMuniere, seconded by Mr. Wadelton, and passed 5-0.

Lloyd (Cornell)/ Whittlesey Road/#IW-09-42/Road Drainage Improvements:

Mr. Sabin, landscape architect, reported that the Town had required a minor revision to the plan, so a catch basin had been added in the road shoulder as had been discussed on the site inspection. Other revisions since the last meeting were: 1) the length of pipe to the outlet was increased from 60 ft. to 80 ft. and 2) a note was added to the plans that the WEO would be notified 48 hours prior to the commencement of work so that the erosion controls could be inspected. The Plan, “Proposed Drainage Improvements at 149 Whittlesey Road,” by Mr. Sabin, revised to 10/26/09 drawn on the “Property/Boundary Survey,” by Mr. Alex dated November 2005 was reviewed. Mr. Bohan asked if the proposed 6 inch pipe would be adequate and Mr. Sabin said it would.

**MOTION:**

To approve Application #IW-09-42 submitted by the Lloyds for drainage improvements at \_\_\_\_\_ Whittlesey Road per the plan, “Proposed Drainage Improvements at 149 Whittlesey Road,” by Mr. Sabin, revised to 10/26/09 based on the November 2005 survey by Mr. Alex.  
By Mrs. Hill, seconded by Mr. Bedini, and passed 5-0.

Potolsky/131 West Shore Road/#IW-09-43/Relocate Driveway, Construct Addition to Existing Dwelling:

Mr. Lasar, architect, presented revised plans; “Site Analysis Plan,” by Mr. Lasar, dated 10/14/09 on the “Property/Boundary Survey,” by Mr. Alex, dated February 2006. Mrs. Hill pointed out the plan now included Mr. Neff’s proposed drainage system and infiltration system just north of the 100 foot wetlands setback line. Mr. LaMuniere thought the plan now contained all necessary details and that no additional information was needed.

**MOTION:**

To approve Application #IW-09-43 submitted by Mr. Potolsky to relocate the driveway and construct an addition to the existing dwelling at 131 West Shore Road per the site plan by Mr. Lasar revised to 10/21/09.  
By Mr. LaMuniere, seconded by Mr. Wadelton, and passed 5-0.

**Enforcement**

Dubuque/231 Baldwin Hill Road/#IW-09-V02:

Mr. Ajello circulated photos that showed an area with intermittent streams had been cleared and excavated. It was noted that although the maps on file show watercourses, Mr. Dubuque had had a 1990 soils report by Mr. Mueller, which stated there were no wetlands on site. Therefore, he had not realized he needed a permit for the work he had done.

Mr. Ajello said that in 1995 the state changed its definition of intermittent watercourse, which explained why the Commission now has jurisdiction over activities in this area. Mr. Dubuque noted that before Saturday’s storm he had spread hay over the disturbed areas and had installed five hay bale check dams to slow the velocity of the runoff. He explained the work he did had been necessary because road drainage was destroying his property and driveway. He had dug a swale to divert the runoff, had connected it to a gully to direct it, and had regraveled his driveway. He said he had completed the excavation work. He noted he still had to hand rake the disturbed areas and rip rap the swale and said he would plant the disturbed areas in the spring. Mr. Ajello agreed the hay bale check dams would slow the runoff and reduce erosion.

A site inspection was scheduled for Tuesday, November 3, 2009 at 3:00 p.m.

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

The 10/20/09 letter from the Army Corps of Engineers to Mr. Rosen was reviewed. This letter threatened further enforcement action if Mr. Rosen did not respond to the Corps' requests.

**New Application Saharek/220 Old Litchfield Turnpike/#IW-09-46E/Driveway, Remove Stumps, Plant Christmas Trees:**

Mrs. Hill recused herself because she is related to the applicant. Mr. Ajello explained this was an application for an agricultural exemption and noted the wetlands had been flagged by a previous property owner. Mr. Saharek proposed to stump, regrade, and seed the disturbed area, install a driveway, and plant Christmas trees. He said he had to get approval from the state DOT for the driveway cut and that the driveway would be approximately 300 feet long. Mr. LaMunier stated there was a gentle slope so there would be no drainage problems. A site inspection was scheduled for Tuesday, November 3, 2009 at 3:30 p.m.

Mrs. Hill was reseated.

Laus/22 Nichols Hill Road/#IW-09-45/2 Lot Subdivision and Site Development:

Mr. Szymanski, engineer, presented the plan, "Site Development, 22 Nichols Hill Road, Town of Washington," 7 pp., by Arthur H. Howland & Assoc., dated 10/1/09. He noted briefly a two lot subdivision was proposed on the 17.6 acre parcel, the plans included the feasibility of the construction of a house on the new lot, and a driveway crossing was proposed over the narrowest point of the wetlands. A seepage envelope that would allow continued conductivity was proposed for the crossing. He noted that the length of the driveway within the wetlands and regulated area was 40 feet and that the wetlands had been flagged by a soil scientist. Elsewhere on the property, a stonewall to serve as a sediment barrier would be constructed between the driveway and the wetlands.

Mr. Szymanski addressed the points raised in the 10/28/09 Application Review by Mrs. J. Hill:

- 1) He said the soil scientist would submit his report.
- 2) He submitted the USGS quad map.
- 3) He said he would notify the Commission who the contractor would be and who would be responsible for the daily inspection of the erosion controls.
- 4) Mrs. Laus would sign the application form.
- 5) Sheet SES.1 had been revised to state the crossing would be installed during a dry period.
- 6) The construction sequence had been amended to state the crossing would be installed prior to the commencement of work related to the lot development/ house construction.
- 7) The limit of disturbance was more clearly indicated on the plan.

A site inspection was scheduled for Tuesday, November 3, 2009 at 2:00 p.m.

Straw Man, LLC./135 Bee Brook Road (Juniper Meadow Road)/#IW-09-44/Driveway and Bridge:

Mr. Wadelton recused himself because he is an adjoining property owner.

Mrs. J. Hill noted that a petition requesting a public hearing had been submitted and intervenor paperwork filed. Mr. Bedini noted that he wanted as much information as possible to be submitted prior to the start of the hearing, including the review by Milone and McBroom. Mr. Charles submitted two soils reports for this site from a previous application. These will be forwarded to Milone and McBroom who will determine whether they are adequate. Hopefully the estimate for the consulting work will be received before the next meeting. It was noted a site inspection would be scheduled after the Milone and McBroom report is completed. Mr. Wadelton was reseated.

**Enforcement Brose/213 Roxbury Road/Unauthorized Clearing and Structures/ IW-08-V5:**

The plans, "Proposed Wetlands Restoration," by Land Tech, dated 6/8/09 and "Proposed Wetlands Presentation," by Land Tech, dated 6/9/09, both with handwritten notes by Ms. Brose and the 10/27/09 letter from Ms. Brose to Mr. Ajello were reviewed.

In her letter Ms. Brose proposed to

- 1) remove the patio, wall, and stairs as indicated by hand on the above plan (approximately half the stairs would be removed,
- 2) restore the patio area per "Plan 2" to a "meadow planting area,"
- 3) let the clearcut areas restore naturally without additional plantings, and
- 4) begin all work in the spring of 2010.

Mr. Ajello noted that proposal did not address the unauthorized wall by the house, which had been constructed 32 feet from the wetlands without a permit. He recommended that all structures within 50 feet of the wetlands be removed.

Mr. LaMunier said he wanted to focus on the major violation and asked if the wall by the house impacted the wetlands. He also noted that Ms. Brose now proposed no plantings to restore the cut areas.

Mrs. J. Hill suggested an application to correct a violation be required for the wall near the house and the other violations handled under enforcement. Mrs. Hill asked if Ms. Brose had begun any of the restoration planting and Mr. Ajello responded she had not.

Mr. Waderton stated, and Mr. LaMunier and Mr. Bedini agreed, that all structures beyond the limit of disturbance line should be removed because Ms. Brose had ignored that condition of approval in her original permit.

Mr. Ajello thought that for the health of the trees previously planted on the hillside that the planter retaining walls should remain. It was the consensus that these could be added to the application to correct the violation.

The presentation plan was reviewed. Mr. Bedini noted that the proposed planting was mitigation for the clearcutting and not for the construction of the unauthorized structures. Mr. LaMunier agreed, adding that if the area was not planted, invasives would take over.

It was the consensus to require both

- 1) an application to correct a violation for the upper wall and planters and
- 2) planting per Land Tech's above referenced remediation plans to restore the damaged wetlands.

Mr. Bedini asked Mr. Ajello to write to Ms. Brose to inform her of these requirements.

**Delancy/79 Litchfield Turnpike/Clearcutting/#IW-08-V6:**

Mr. Delancy attended the meeting because he had received a citation, could not get an appeal form from the Land Use Office, but wanted to make an appeal. It was noted that appeal forms are available in the Selectmen's Office. Mr. Delancy said the letter sent by the Commission on 9/16/09 told him an application was required, but did not give him a deadline, but the citation letter specified that 10/14/09 had been the deadline. He reviewed the remedial work he had done on his property to date and said he had not had time to make an application for the rest of the activities he proposed.

Mr. Bedini responded that he should have contacted the Commission that there would be a delay in submitting the application, rather than ignoring the letter like he did.

Mr. Delancy reviewed the sketch map he had presented at the 9/9/09 meeting. Mr. Bedini advised him to add dimensions and the stream to the map and provide a written description of all activities proposed.

Mr. LaMuniere noted that at the 9/9/09 meeting, Mr. Bedini had given Mr. Delancy a list of eight actions be carried out to clean up the violations on his property, that since then two letters had been sent, and it was now time that Mr. Delancy follow through with the required application.

Mr. Delancy complained the application form was intimidating. Mr. Bedini noted that to be helpful the Commission had told him it would not require an A-2 survey, had provided him with the list of items to address, and had the Conservation District report on the soils on site so he did not have to hire a soil scientist. Mr. Delancy asked that the citation be withdrawn. Mr. Bedini said the Commission would discuss it and let him know, but noted the application was still due and there were regulations to follow. Mr. Delancy asked if the citation deadline could be extended. Mr. Ajello agreed to extend it. Mr. Delancy asked that the application fee be waived. Mr. Bedini said there was no reason to waive the application fee and to do so would set a bad precedent. Mr. Delancy asked if he could stack firewood at the corner of the roadbed and the driveway. Mr. Bedini advised him to show it as a proposed activity on his sketch map and the Commission would then consider it.

Mr. Ajello noted the violations on the property had included storage of materials from off site in the wetlands and operating equipment in the wetlands. Mr. Delancy said the location where he proposed to stack firewood would be good because the machinery could be operated from the driveway and reach the wood without going into the wetlands. Mr. Bedini noted the Commission would not allow machinery to be operated in the wetlands.

### **Enforcement Report**

#### Angell/47 West Shore Road:

A notice of violation and a citation have been sent.

#### Bardell/169, 177 Baldwin Hill Road:

This work is nearing completion.

#### Beckett/23 Loomarwick Road:

The foundation is being backfilled. The silt fence and anti tracking pad will have to be reinstalled.

#### Bowman/44 Plumb Hill Road:

Work is progressing.

#### Charvillat/96 Roxbury Road:

It was noted that after a finish card had been sent in, Mr. Ajello wrote to the property owner that the blue flag iris around the pond and buffer vegetation had not been planted per the approved plan.

#### Donovan/53 Kinney Hill Road:

Recent storms did not damage the site.

#### Dubuque/231 Baldwin Hill Road:

This was discussed earlier in the meeting. It was agreed it would have been helpful if the determination regarding whether there were wetlands on the property had been made before, rather than after, the work had been done.

#### Moriniere/Wheaton Road:

An agent approval was granted for a service trench.

#### Schein/245 West Shore Road:

The physical work is finished, but the required plantings have not been done. Mr. Ajello will contact the owner. It was also noted the citation had not been paid.

#### Tangeman/84 Carmel Hill Road:

The vernal pool has been installed and is holding water, but the planting has not yet been done.

Town of Washington/East Shore Road:

Mr. Ajello noted the shoreline does not have a natural edge as the Commission anticipated.

141 West Shore Road, LLC./141 West Shore Road:

Mr. Ajello thought the work had been completed.

**Enforcement**

Moore/25 Litchfield Turnpike/Unauthorized Clearing, Filling:

There was nothing new to report. Mr. Ajello will review the file.

DiBenedetto/212-214 Calhoun Street/Restoration of Understory:

Mr. Ajello had nothing new to report.

Anderson/35-45 Gunn Hill Road:

The agreement has been signed and is waiting for the court date. Once approved in court, restoration will be done on site per the approved plan.

Brown/127 West Shore Road:

This matter continues in litigation.

Howard/West Shore Road:

The Commission is waiting for an official notification from our attorney that this matter has been resolved.

Lodsin/78 Litchfield Turnpike/#IW-07-V12:

There has been no progress.

Slaymaker/17 Sunset Lane/#IW-07-V14:

The restoration work was supposed to have been completed by this time, but the Land Use Office has not received notification that it has been done. Mr. Ajello noted the Town is holding a \$5000 bond.

Rosen/304 Nettleton Hollow Road/#IW-08-V2:

The 10/20/09 letter from the Army Corps of Engineers was discussed earlier in the last Meeting.

Files Closed by the WEO:

Mr. Ajello reported that he had signed off on and closed:

- 1) Kessler/West Mountain Road,
- 2) the Town of Washington/Nettleton Hollow Road,
- 3) Erhout/289 West Shore Road/Septic Repair,
- 4) Shepaug Valley Regional Middle-High School/South Street/Drain Pool, and
- 5) Lufkin/36 Hinkle Road/Chemical Application to Pond.

**Administrative Business**

Annual CACIWC Meeting:

Registration forms for the annual meeting were circulated.

Authority to Issue Citations:

Mrs. Hill noted that the issuance of citations is the enforcement officer's responsibility, not the Commission's. She said it was not correct to say that the EO had been directed by the Commission to issue a citation. She explained that the Commission is governed by state statutes, whereas the citation process is according to Town Ordinance.



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

Mr. Bedini adjourned the Meeting at 10:26 p.m.

Filed subject to approval

Respectfully submitted,

Janet M. Hill

Land Use Administrator