

November 10, 2009

Public Hearing – Regular Meeting

5:30 and 7:00 p.m., Land Use Meeting Room

MEMBERS PRESENT: Mr. Bedini, Mr. Bohan, Mrs. Hill (absent for public hearing), Mr. LaMuniere, Mr. Wadelton

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

ALSO PRESENT: Mr. Charles, Mr. Sonder, Mr. Szymanski, Mr. Neff, Mr. Woodward

PUBLIC HEARING

Wykeham Rise, LLC./101 Wykeham Road/#IW-09-39/Affordable Housing/Con't.

Mr. Bedini reconvened the public hearing at 5:31 p.m. and seated Members Bedini, Bohan, LaMuniere, and Wadelton. Mr. Bedini noted the review from Land Tech had not yet been received due to problems with the postal service.

Mr. LaMuniere noted the plans revised to 11/4/09 now showed the network of underground pipes and how the drainage system connects with the catch basin, but still did not show erosion and sedimentation controls at the bottom of the embankment near the tennis court as he had requested. He noted there were only four discharge points for the entire drainage system.

Mr. Szymanski, engineer, arrived at 5:37 p.m. He said he had responded to the Commission's requests to

- 1) show the existing underground piping,
- 2) address wetland pond #2 and how its runoff will be handled, stating its outflow pipe was sized for a 100 year storm event and the runoff would discharge to a level spreader with a non erosive downhill outlet,
- 3) the outlet to Kirby Brook near wetlands flags #1, #2, and #3 had been reexamined and the outfall to the edge of the brook was increased in size to 4 ft. wide X 1 ft. deep, resulting in 576 sq. ft. of disturbance in the wetlands,
- 4) a list of the proposed activities within the Commission's jurisdiction was submitted in his letter dated 11/3/09, and
- 5) the restoration requested by Land Tech at wetlands flag #14 was included in the plan.

He noted that he had received a copy of the notice of intervention by Mrs. Federer and he briefly addressed each of the points raised in this document. For most of these points he stated that Mrs. Federer had not provided documentation to prove the plans were inadequate.

Mr. LaMuniere again noted that the erosion and sedimentation controls he had requested downhill of the tennis court and uphill of the vegetated swale to wet pond #1 had not been included as he had requested. Mr. Szymanski promised to submit a revised Sheet OSD.1 to address these concerns.

Mr. LaMuniere also stated there were only four discharge points to Kirby Brook and so he thought that unless there was a major storm event, the brook would not be adversely impacted. Mr. Szymanski said he had demonstrated that the proposed drainage system would adequately handle a 100 year storm.

There were no other questions or comments from the commissioners or from the public.

At 5:50 p.m. Mr. Bedini continued the public hearing to Tuesday, November 24, 2009 at 6:00 p.m. in the Land Use Meeting Room, Bryan Memorial Town Hall.

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

REGULAR MEETING

Mr. Bedini called the Regular Meeting to order at 7:08 p.m. and seated Members Bedini, Bohan, Hill, LaMuniere, and Wadelton.

MOTION:

To include the following subsequent business not already posted on the agenda:

V. New Applications:

A. Kott/14 Wheaton Road/ #IW-09-47/Addition to Existing Dwelling,

VI. Other Business:

A. Request to Amend Harrison/ 19 Kielwasser Road/#IW-09-10/1) driveway extension, 2) enlargement of garage addition,

B. Request to Release Bond/Rubler/240 Wykeham Road,

C. Bubblers on Lake Waramaug,

D. Walker Brook Subdivision, New Milford. By Mr. Bedini, seconded by Mr. LaMuniere, passed 5-0.

Consideration of the Minutes

The 10/28/09 Regular Meeting minutes were accepted as corrected.

Page 2: End of line 12: Change to: "Mr. LaMuniere agreed with Land Tech that the plans must show how the catch basins and the underground network of pipes connect and whether there are other discharge points besides the two discharging into Kirby Brook shown on the plan. The Commission needs to understand how the overall site's drainage system functions. He also stated that to prevent further erosion at the discharge point at the northeast corner of the existing tennis court, rip rapping or other measures should be considered to control runoff velocity. Mr. Szymanski...."

Page 2: End of line 25: Change to: "Mr. LaMuniere stated that he had inspected the location of the proposed extremely steep embankment on the west side of the proposed tennis court...."

Page 8: Line 13: Insert: "remediation" to read, "The presentation (remediation) plan was reviewed."

Page 8: Line 17: Change to: "It was the consensus to require

1) two applications to correct a violation; one for the upper wall and planters and the second to remove the illegal structures and

2) to require execution of the proposed planting plan.

Page 10: Line 16: The correct spelling is "Andersson."

MOTION:

To accept the 10/28/09 Public Hearing-Regular Meeting minutes as corrected.

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

The 11/3/09 Dubuque site inspection minutes were accepted as corrected.

In the last paragraph, the spelling of "vegetation" was corrected.

MOTION:

To accept the 11/3/09 Dubuque site inspection minutes as corrected.

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

MOTION:

To accept the 11/3/09 Saharek site inspection minutes as written.

By Mr. LaMuniere, seconded by Mr. Wadelton, and passed 4-0-1. Mrs. Hill abstained.

MOTION:

To accept the 11/3/09 Laus site inspection minutes as written.

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

Pending Applications

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

The public hearing was continued to Tuesday, November 24, 2009 at 6:00 p.m. in the Land Use Meeting Room, Bryan Memorial Town Hall.

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

Copies of the 11/7/09 letter from Ms. Canning requesting that her engineer be given the opportunity to present the construction plans to the Commission and that the Commission conduct a site inspection of the property prior to deciding whether to forward the application to Milone & McBroom for review was circulated.

Mr. Charles, agent, said he thought the proposed cost of the consultant's review was high considering that the Commission had previously approved a culvert crossing for this site, this proposal implements limited impact development practices, there are no feasible and prudent alternatives, and the estimate did not include a cap for the cost. He, too, recommended that a site inspection be scheduled soon so the Commission would be familiar with the area.

The revised plans, "Wetlands Crossing for Access Driveway," 4 sheets, by Mr. Trinkaus, dated 10/12/09 were reviewed.

Mr. Charles pointed out the wetlands flags, wetlands soils, seepage envelope, right of way, driveway route in the regulated area, etc. He noted that due to the location of the right of way the driveway must cross the wetlands. He said the proposed location minimizes the cut through the wetlands and that there was no alternative. It was noted that the soils shown on the sketch maps from previous applications did not exactly match those on Howland's survey map.

Mr. LaMuniere thought the Commission should inspect the site and come up with technical questions about the impact of the bridge construction on the wetlands so that these could be referred in a timely manner to the consultant.

Mr. Ajello recommended the plans be reviewed by the consultant prior to the commencement of the public hearing.

Mr. Bedini asked Mr. Sonder if he had prepared a list of concerns for the consultant to review. Mr. Sonder said he had not, but hoped to have it ready for the next meeting.

Mr. Sonder noted one question he had was whether there were more prudent ways to access the property.

Mr. Bedini stated the Commission usually tries to have the site inspection conducted and the consultant's report in before the start of the public hearing.

Mr. Charles thought it would be helpful to schedule the site inspection before referring the application to the consultant to help the Commission zero in on its concerns.

Mrs. Hill thought a review by the Commission's consultant was necessary because it had been 20 years since the original application had been approved.

A site inspection was scheduled for Monday, Nov. 16, 2009 at 3:00 p.m.

Mr. Sonder asked if a new soils report would be required. Mr. Charles noted there were already two soils reports and two soils sketch maps in the file, said the wetlands had been flagged for the current application, and so asked if another soils report was necessary.

Mrs. Hill thought the current map accurately showed the location of the wetlands flags.

Mr. Sonder asked if the Commission's consultant was authorized to begin his review.

Mr. Bedini said he would not be authorized to begin until Mr. Sonder's list of concerns had been submitted.

Mr. Sonder asked when the applicant's engineer would make his presentation.

Mr. Charles said this would be done at the public hearing.

Mr. Ajello asked why the Commission would hold up on the consultant's report and Mr. Bedini responded that until Milone & McBroom had the list of concerns to address, the scope of the review and the estimated cost could not be determined.

Mr. Ajello responded that was the reason the applicant was required to post 150% of the estimated cost for the consultants' bond.

Mr. Bedini said the Commission would get its list of concerns to Milone & McBroom soon after the site inspection. Mr. LaMuniere recommended the commissioners also review the previous files for this property.

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

Mr. Szymanski, engineer, compared the plan, "Site Development Map," by Arthur H. Howland & Assoc., revised to 11/10/09, which showed the proposed change in the driveway location, to the original plan dated 10/1/09. He noted that on the site inspection the commissioners had asked if the driveway route in the northeast corner of Lot #1 could be shifted to the other side of the existing stonewall to increase the separation distance from the wetlands. Therefore, he had modified the plan to provide a 60 ft. buffer from the wetlands. He also modified the limit of disturbance line and the erosion control measures accordingly.

Mrs. Hill asked if Mr. Myles' wetlands report had been submitted. Mr. Szymanski stated a note had been added to the plan that the wetlands delineations had been done in the field by Mr. Myles and he would send in Mr. Myles' report.

Mrs. Hill asked if the other commissioners had concerns about the rip rapped pad for the footing drain outlet. They did not.

Mr. LaMuniere noted the change in the driveway location was an improvement.

MOTION:

To approve Application #IW-09-45 submitted by Ms. Laus for a subdivision and site development at 22 Nichols Hill Road per the plan, "Site Development Plan," by Arthur H. Howland & Assoc., revised to 11/10/09.

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

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

Mrs. Hill recused herself.

Mr. Bedini noted there had been no issues raised at the last meeting and he reviewed possible conditions of approval.

Mr. Wadelton questioned the validity of placing conditions on an agricultural operation.

After a brief discussion it was the consensus to include conditions due to the soil disturbance that would result from the stump removal and regrading.

MOTION:

To approve Application #IW-09-46E submitted by Mr. Sarharek for an agricultural exemption to install a driveway, remove stumps, and plant Christmas trees at 220 Old Litchfield Road subject to the condition that erosion and sedimentation controls be installed within 50 feet of all wetlands and that this line constitute the limit of disturbance.

By Mr. Bedini, seconded by Mr. LaMunier, passed 4-0.

Mrs. Hill was reseated.

New Applications

Kott/14 Wheaton Road/#IW-09-47/Addition to Existing Dwelling:

Mr. Neff, engineer, presented his plan, "Proposed Site Plan," dated 10/22/09. He explained an 8' X 21' addition was proposed on the rear of the dwelling, that the addition would be close to the side yard boundary lines and only 21 feet from the wetlands, and there were no new bedrooms proposed so no changes to the existing septic system would be required. Concrete piers were proposed so minimal foundation work would be required. Mr. Neff also noted that the area behind the house is flat and not prone to erosion, but that he had also submitted an erosion and sedimentation control plan. He said there would not be much excavation work and that any excess material would be taken off site.

Mrs. Hill asked if hay bales would be placed in the stream. Mr. Neff said they would be installed at the edge of the property, not in the stream.

Mr. LaMunier stated that the Commission had required a buffer of vegetation be planted at the hilltop above the wetlands to prevent erosion. Mr. Neff showed some photos of the yard, but it did not look like the required vegetation had been planted.

Mrs. Hill asked Mr. Ajello to research the old file and make sure all of the required planting had been done.

A site inspection was scheduled for Monday, 11/16/09 at 4:00 p.m.

Other Business

Request to Amend Harrison/19 Kielwasser Road/#IW-09-10 to Include Driveway Extension and Enlargement of Garage Addition:

Mr. Neff, engineer, reviewed the revised plan, "Soil Erosion and Sediment Control Plan," by Mr. Neff, revised to 11/7/09, pointing out the proposed driveway location and the increase in size of the garage from 12' X 19' to 19' X 19'. No changes to the septic system were proposed. Mr. Neff noted that although the extension would bring the driveway closer to the wetlands on the south and east sides of the property and to the watercourse to the south, the wetlands were not directly downgrade and the watercourse was upgrade so they would not be impacted by the proposed construction.

Mr. LaMunier asked if the driveway would have an impervious surface. Mr. Neff responded that it would match the existing asphalt surfaced driveway.

Mr. Ajello voiced the following concerns:

- 1) The soil stockpile area was not sufficiently sized for such a constrained site with so much excavate material. He asked that the site plan be amended to show an adequate stockpile area.
- 2) The proposed installation of a propane tank was a regulated activity, but had not been shown on the site plan.
- 3) The additional work on the garage foundation was a change to the permit, but had not been reported to the Commission as required.
- 4) The conduit trenches that had been dug through wetlands were a regulated activity, but had not been applied for or shown on the site plan.

Mr. Neff said there was not room for all of the excavated material and so some would be trucked off site.

Mr. Bedini asked for a note on the plan to specify any unused material would be taken off site.

Mr. Woodward, contractor, said Wright Electric had installed silt fence and had put in the trenches, but he took responsibility for not checking to make sure Inland Wetlands approval had been granted.

It was the consensus that the utility trench dug through the wetlands was a violation and Mr. LaMuniere thought that a citation should be issued.

Mr. Ajello said he would talk to Wright Electric.

Possible conditions of approval for the request to amend the permit were discussed.

MOTION:

To approve the request to amend Permit #IW-09-10 issued to Harrison/19 Kielwasser Road to extend the driveway and enlarge the garage addition subject to the following conditions:

- 1) the plan be revised to show the locations of the service trench and the proposed propane tank,
- 2) a note shall be added to the plans that all unused material shall be trucked off site, and
- 3) the applicant must check to determine whether the stockpile areas shown on the plan are sufficient in size to accommodate the excavated materials.

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

Request for Release of Bond/Rubler/240 Wykeham Road:

Mr. Ajello said there was no longer any reason to hold the bond and that the application for the tennis court and pool had expired.

MOTION:

To return the bond posted for Rubler/240 Wykeham Road.

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

Bubblers on Lake Waramaug:

Mr. Ajello reported there are many bubblers on the lake that keep the water free of ice all year long. He said this attracts geese and increases the nutrient load in the water. Some of these installations, he said, include electrical service to the waterfront, adding that if the service requires more than just a post in the ground, an Inland Wetlands permit is required. Mr. Ajello was concerned because he thought meter boxes along the waterfront are ugly and bubblers are outside the Commission's jurisdiction because they are installed in state waters.

Mr. Bedini said the Assessor's position is that the Town of Washington owns the lake bottom.

Mr. Ajello asked if the Commission wanted to try to curb the use of bubblers.

It was the consensus to let the Lake Waramaug Assoc. and Dr. Kortmann handle this issue.

Walker Brook Subdivision/Rt. 109, New Milford:

It was noted that since the start of work on this project, sediment has been observed in Walker Brook.

Mr. Nichols, Walker Brook Road, asked if the Town of Washington would request that New Milford keep it “officially in the loop” for all enforcement communications.

The Commission asked Mr. Ajello to drive by the site two or three times a week and to call New Milford whenever he noticed any impact to the brook.

Mr. Bedini said Mr. Nichols could contact the First Selectman if he wanted the Town to take any further action.

Enforcement

Charvillat/96 Roxbury Road:

Mr. Ajello wrote the property owner as the Commission requested, but to date there has been no response.

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

Mr. Bedini reported that the Town will install and maintain plunge pools near the road and the driveway culvert to slow the velocity of the runoff and act as sediment basins. In addition, Mr. Dubuque will line the swale along the driveway with rip rap. It was noted the Commission considers this to be a regulated area and that Mr. Dubuque said he would revegetate the disturbed areas in the spring.

Schein/245 West Shore Road/#IW-08-V7/Unauthorized Work on Shoreline:

Mr. Ajello will send another letter and reissue the citation.

Harrison/19 Kielwasser Road/Unauthorized Activity in Regulated Area:

There was a brief discussion about whether to issue a citation for this violation. It was the consensus to send the citation to the contractor.

Administrative Business

Mrs. Hill passed out the following documents:

- 1) “Roles and Responsibilities of Local Land Use Officials – Inland Wetlands Commission,” by the Land Use Academy, revised 9/09,
- 2) “Public Hearing Procedures,” by Atty. Branse, and 3) “Working to Keep Land Use Decisions Legal, Summary of 9/26/09 Land Use Academy Workshop,” by Mrs. Hill.

She asked the commissioners to review them and said if there were any questions, they could be discussed at the next meeting.

MOTION: To enter Executive Session at 9:43 p.m. to discuss pending litigation: Brown/127 West Shore Road. By Mr. Bedini, seconded by Mr. Wadelton, and passed 5-0.

MOTION: To end Executive Session at 9:48 p.m. By Mr. Bedini, seconded by Mr. Wadelton, passed 5-0.

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

Mr. Bedini adjourned the Meeting at 9:49 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,
Janet M. Hill, Land Use Administrator