

## February 27, 2008

MEMBERS PRESENT: Mr. Bedini, Mrs. D. Hill, Mr. Picton, Mr. Thomson

MEMBER ABSENT: Mr. LaMuniere

ALTERNATES PRESENT: Mr. Bohan, Mr. Wadelton

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

ALSO PRESENT: Mr. Sabin, Mr. Gruson, Mr. Kozak, Mr. Farnen, Mr. Smith, Mr. McDermott, Mr. Solley, Press,

Atty. Coploff

### REGULAR MEETING

Mr. Picton called the meeting to order at 7:02 p.m. and seated Members Bedini, Hill, Picton, and Thomson and Alternate Bohan for Mr. LaMuniere

MOTION: To include the following subsequent business not already posted on the agenda: Executive Session to Discuss Pending Litigation. By Mrs. Hill, seconded by Mr. Bedini, and passed 5-0.

### Consideration of the Minutes

The 2/14/08 Regular Meeting minutes were accepted as corrected.

P. 2: Town of Washington: Line 3: Change: Hurlbut" to "Lyon"

P. 4: 2nd line from top: Change: "normal" to "frequent"

5th line from top: Change: "between" to "behind"

Last sentence before motion: Change to: "...as the same area of shoreline was being filled and paved."

P. 8: Paragraph under motion: 4th line: Insert: "either 50 or 75 feet up hill of" before "the 798 ft. contour..."

Paragraph under motion: 5th line: Add new sentence after "work line:" "These lines would be flagged and Mr. Picton would make a field inspection and judge which line would be used."

Andersson: Line 3: Delete: "court issued"

P. 10: Brown: 4th line: Insert: "to Atty. Zizka" after "request"

Brown: 2nd line from bottom: Change: "amp" to "map"

MOTION: To accept the 2/14/08 Regular Meeting minutes as corrected. By Mr. Bedini, seconded by Mr. Picton, and passed 5-0.

MOTION: To accept the 2/19/08 Newman site inspection minutes as written. By Mr. Bedini, seconded by Mr. Thomson, and passed 4-0-1. Mr. Picton abstained because he had not attended the inspection.

MOTION: To accept the 2/19/08 Fleishmann site inspection minutes as written. By Mrs. Hill, seconded by Mr. Thomson, and passed 4-0-1. Mr. Picton abstained because he had not attended the inspection.

The Fleishmann site inspection was briefly discussed. Mr. Thomson had questioned whether the fire pond was, in fact, a vernal pool and said if so, the proposed drainage system should not empty into it.

### Pending Applications

**Newman/20 Painter Ridge Road/#IW-08-04/Drainage Improvements, Driveway Renovation: Mr.**

Sabin, landscape architect, presented his 2/27/08 memo to the Commission and the plan, "Final Preliminary Concept," revised to 2/27/08. The memo included the amounts of materials to be used for the new drainage swale; approx. 30 c.y. of 18" to 2' diameter boulders to be placed along the sides and approx. 6 c.y. of 3" to 4" minus tailings to be placed in a 12" layer along the bottom, and a cross section of the "dry stream." He added a 20 ft. section of silt fence at the end of the swale. This would remain in place until construction was completed. He noted this drainage swale was needed to prevent runoff from flowing over the driveway and that it would have a 5 to 6 ft. level spreader at its end. Although the proposed channel would be deep, the commissioners thought it was necessary and that it would be hazardous if it was installed along the driveway. Mr. Bedini thought that this was the solution that would cause the least amount of disturbance. Mr. Picton asked if the swale's outlet could be moved 20 ft. farther from the stream. Mr. Sabin said this was not possible because runoff would still be able to reach the driveway. He described the headwall construction. Mrs. D. Hill asked about landscaping plans within 100 ft. of wetlands and whether erosion controls were needed. Mr. Sabin responded that pea stone would be spread on the driveway, a hammerhead turnaround installed, and a patio and walkway built. He noted that although they would be within the 100 ft. review area, that most of the activities would take place where there was existing lawn. He said all work would be done on the existing grade and the largest piece of equipment that would be used would be a small backhoe. Mr. Picton noted that the measurements to the wetlands were not to scale and that the \$30 state tax had not yet been submitted. Further discussion was tabled to the next meeting.

**Fleishmann/219 Roxbury Road/#IW-08-05/Construct House and Barn, Remove Shed, Move**

**Caboose:** Mr. Bedini noted that the information requested by the Commission had not yet been submitted. This included the limit of disturbance line, limit of clearing line, areas of deposition, regrading contours, location of the utility trenches, construction sequence, and yards of material to be removed. Based on observations during the site inspection, it was noted there was a seep area in the vicinity near Roxbury Road where Mr. Fleishmann proposed to deposit some of the excavated material. The Commission asked that a soil scientist map this area. In addition, the Commission asked that a soil scientist who is also qualified as a biologist or ecologist inspect the fire pond to determine whether it is a vernal pool and if it is, to specify what measures should be taken to protect it. Mr. Thomson noted he had attended a vernal pool training session and he thought this was a vernal pool. Mr. Bedini said if this were so none of the runoff from the house should be directed there. The map, "Topographic Survey," by Mr. Riordan, dated 6/15/07 with the proposed buildings drawn in by hand was reviewed. Mr. Thomson and Mrs. D. Hill recalled that a different map had previously shown more wetlands in the front of the property. It was noted that this map was not signed and sealed and that its accuracy needed to be confirmed. The accuracy of the wetlands flags on site was also questioned. Mr. Bedini thought the wetlands had been flagged in 1999 and the Mr. Fleishmann had recently put up new flags to show where the originals had been. Mr. Bedini recommended that the soil scientist be asked to confirm that all of the wetlands on the property have been accurately flagged. Mr. Picton asked if there was any area of concern directly below the proposed house site. Mr. Ajello said there was not. Mr. Bedini said that removing the shed and moving the caboose would have no impact on the wetlands. Mr. Picton asked Mrs. J. Hill to review all past minutes, compile the list of information the Commission has asked for, and send the list to Mr. Fleishmann. Further discussion was tabled to the next meeting.

**New Applications**

**Freese/187 Shearer Road/#IW-08-06/Construct House:** Mr. Neff, engineer, pointed out on his map, "Proposed Site Plan," dated 2/21/08, the location of the wetlands in the SW corner of the 2.8 acre lot at the corner of Shearer and West Morris Roads. He noted that the limit of disturbance was at least 100 feet from the watercourse and the wetlands, which had been flagged by Mr. Temple. Mr. Neff said he had found good soils on site. Mr. Ajello noted that he had not yet inspected the property. Mr. Picton

asked that he make inspections for new applications prior to the meeting so that it could be determined in advance whether it would be necessary for the Commission to conduct a site inspection, what the issues were, what additional information was needed, etc. Mr. Bedini agreed, saying that this procedure would be more productive because if it was found that there was not enough information in the file, the Commission would not schedule an inspection. A site inspection was scheduled for Wednesday, March 5, 2008 at 4:00 p.m.

**Region #12 School District/159 School Street/#IW-08-07/Outdoor Track:** Mr. McDermott, engineer, represented the applicant. He advised the Commission that the school had applied for the same activity in October of 2000 and that the only change to the approved plan was the size of one of the drainage pipes. The plans, "Reconstruction of Running Track," 8 sheets, by Milone and MacBroom, revised to 2/22/08, was reviewed. The work proposed included converting the existing cinder track to an all weather surface, adding two sprinting lanes on the east side, paving the high jump area, and installing a perimeter sidewalk, emergency driveway, and handicapped access. He noted there would be no change to the perimeter drainage inside the track. Mr. McDermott pointed out the stockpile areas to be used during construction, sedimentation and erosion control plans, anti tracking pads, construction narrative, soil scientist's report, location of swales to capture surface runoff and direct it to the perimeter drains, location and direction of runoff flow, bleacher pad, etc. He said runoff would be picked up as it bled off the hill and would be piped to existing manholes. He said that no outdoor lighting was proposed at this time, but that a dead conduit would be installed in case lighting was proposed in the future. Mr. McDermott noted the proposed duration of the project was three months; from Memorial Day to the opening of school. Mr. Picton asked Mr. Ajello to familiarize himself with the site and to review the application and construction sequence for completeness before the next meeting.

**Rumsey Hall School/200 Romford Road/#IW-08-08/Hockey Rink, Extend Driveway, Dormitory, Parking, Etc.:** Mr. Picton noted the application had been submitted as had been requested at the last meeting. He advised the Commission of the 2/26/08 letter from Mr. Williams of Shipman & Goodwin, which stated that although the school was cooperating, the submission of the application did not mean that it conceded it was conducting regulated activities or that the Commission had jurisdiction in this matter. The second letter received since the last meeting was dated 2/11/08 to Mr. Picton from Mr. Smith and Mr. Riefenhauser and it responded to Land Tech's 2/4/08 review. In short, the applicant agreed to all of Land Tech's recommendations except #1 and #4. The plans, "Proposed Ice Rink and Dormitory," 9 sheets, by Smith and Co., revised to 2/11/08, were reviewed. The revisions detailed by Mr. Smith, surveyor, included rotating the rink building 18 feet (the nearest corner of the building had been 471 ft. from the river, but would now be 490 ft. away), reducing the width of the circular driveway from 24 to 22 feet, adding crushed stone under the parking lot to act as a recharge area for the first inch of rainfall, moving the retention basin 45 feet up the slope, moving the level spreader 12 ft. up the hill, and slightly reducing the size of the retention basin due to the recharge area under the parking lot. Mr. Smith said he had met with Land Tech and that both firms were in agreement about the revisions. He said that at the last meeting and in his detailed letter in the file, Mr. Buck, engineer, had addressed the reasons why the retention basin could not be relocated to the west, and he briefly reviewed them. Mr. Picton asked if the reason the width of the driveway could not be reduced further was to allow two lanes for emergency vehicle access. Mr. Smith said it was, adding that reducing the width any more would mean the driveway would have to be one way, which would cause traffic circulation problems. Mr. Smith noted that a maintenance schedule had been added to the plans to address concerns raised by the Commission at the last meeting. Mr. Picton said the Commission had not yet received advice from Land Tech about the amount of the bond to be posted, but suggested that \$20,000 might be appropriate. He also noted that weekly reports from the contractor should be filed with the Commission until all disturbed areas are stabilized. Mr. Picton asked the commissioners to study the file before the next meeting and Mr. Ajello to get the final report from Land Tech.

**Del Nin/32 Wykeham Road/#IW-08-09/Inground Pool:** Mr. Neff, engineer, presented his map, "Soil Erosion and Sediment Control Plan," revised to 2/24/08. He noted the location of the proposed 18' X 36' pool and of the wetlands along the eastern boundary line of the 2.27 acre property. The limit of disturbance line was noted. Mr. Neff stated that the pool had been moved closer to the existing house in order to decrease the area of disturbance. He noted cuts and fills would be required for the pool site, but that this would be outside the 100 ft. review area. Mr. Ajello was concerned about the large equipment operating near the wetlands on the sharp curve of the driveway and so recommended that a row of silt fence be installed here to protect the wetlands from the driveway runoff. Mr. Neff was commended for working with the applicant to site the pool to avoid impacting the wetlands. A site inspection was scheduled for Wed., March 5, 2008 at 4:30 p.m.

**Gruson/62 Frisbie Road/#IW-08-10/Pond Maintenance:** Mr. Neff, engineer, presented the map, "Pond Maintenance Plan," by Mr. Neff, dated 2/20/08, noted the property was within 500 ft. of the Roxbury town line, and said he had notified Roxbury of the application. Mrs. D. Hill thought the Commission was required to notify Roxbury and asked the secretary to find out if this was so. Mr. Neff pointed out the location of the proposed dewatering area next to the pond and said the excavated material would be spread over the hayfield. He noted that the concrete base for the diving board and the stone patio at the SW corner would be removed to give the pond a more natural look. He also proposed to deposit some clay on the east side of the dam to repair a leak. The work was proposed for mid summer during the dry season. Mr. Picton asked if the pond would be made larger or deeper. Mr. Neff said it would be deeper, that approx. 3 to 4 ft. of material would be removed from the center, a total 500 cu. yds. would be removed, and the 1:3 sideslopes would remain. Mr. Picton said this would be good for plant growth around the edge, but it was noted there was no planting proposed. Mrs. D. Hill requested a planting plan. Mr. Picton agreed that it would be a higher quality wetland if there was vegetation around the perimeter. It was noted the wetlands above drain down into the pond and there is a watercourse below it. Mr. Picton asked how the flow might affect the work plan and whether there were any other wetland pockets nearby. A site inspection will be scheduled at the next meeting when hopefully, the snow will be melted.

**Mnuchin and Douglas Herbicide Applications:** It was noted that these two property owners had been advised that they are required to apply for a local Inland Wetland permit prior to the application of herbicides or pesticides in a watercourse. Mr. Ajello also notified Mr. Gambino, their agent. Mr. Picton noted that in the past the Commission had written to the DEP to ask that it not approve herbicide applications unless it could be proven that the chemical(s) would not migrate out of the pond. He said there were other environmentally sound methods for managing ponds. Mrs. J. Hill will send another letter to the DEP, this time to the attention of the new commissioner.

#### Enforcement

**Andersson/35-45 Gunn Hill Road:** Litigation is pending. This was discussed under Executive Session.

**Brown/127 West Shore Road:** It was noted this file had already been sent to Atty. Zizka and that it appeared that Mr. Brown would be cooperative. Mr. Picton hoped that a restoration plan would soon be agreed upon and that the work could be done this year when the water level was low. Mr. Bedini noted that the Commission should ask Atty. Zizka for the legal definition of "shoreline." Mr. Picton thought if there was no legal definition, the full range of highest water level to lowest water level should be used rather than just one average line. It was the consensus that applicants should be required to show the full range of the shoreline on their property.

**DiBenedetto/212-214 Calhoun Street:** Mr. Ajello reported that the invasives had been removed and that the dead, diseased, and crowded trees were now being cut. A site inspection was scheduled for

Wednesday, March 5, 2008 at 4:45 p.m.

**Howard/99 West Shore Road:** Mr. Picton noted the Commission had asked that this file be forwarded to Atty. Zizka and asked Mr. Ajello to send it as soon as possible.

**Lodsin/78 Litchfield Turnpike:** Mr. LaMunier had reviewed the many Inland Wetlands files for 78 Litchfield Turnpike and compiled a history of the property. This and the content of the current file were recently mailed to Atty. Zizka.

**Kessler/West Mountain Road:** Mr. Ajello reported that the wattles that had been installed in some places instead of silt fencing were working well.

**Peloquin/1 New Preston Hill Road:** Mr. Picton noted that all disturbed areas needed to be seeded and mulched.

**Slaymaker/17 Sunset Lane:** Mr. Ajello noted that soil tests had confirmed that the house and a section of the existing driveway are located in wetlands. An application is expected for the next meeting.

**Moore/25 Litchfield Turnpike:** Mr. Ajello said he would inspect the property again in the spring to determine whether more plantings were needed. It was noted there was an outstanding fine that Mr. Moore had not challenged, but had not yet paid. Mr. Picton asked Mr. Ajello to look up what the next step is in the proper procedure to collect fines.

**Wright/59 Scofield Hill Road:** Mr. Ajello said the restoration work was almost done. He said he would inspect the site in the spring to determine whether more plantings were needed.

**Etherington/49 Wheaton Road:** Mr. Ajello said that no work had been done since the last meeting due to weather conditions. It was noted that Mr. Ajello had been asked to determine whether Mr. Etherington had exceeded the scope of his permit, and if so, to issue a citation.

Other Business

**Revision of Section 20: Appendix C/Proposed Increase in Fines for Violations and Enforcement Matters:** Mrs. J. Hill will submit the approved language to the Selectmen's Office as soon as possible so that this matter may be included on the agenda for the next Town Meeting.

**Revision of the Regulations:** This work is ongoing.

**Application to Correct a Violation:** Mr. Bedini and Mrs. D. Hill reported they had drafted a new application form that included a checklist of proposed activities so that there would be one standard form that was used for all applications. Mr. Bedini will get the final version to Mrs. J. Hill so that the Commission can begin to use it immediately.

**Commission Jurisdiction Beyond the 100 Ft. Review Area:** Mr. Picton reported that he had talked to Atty. Zizka about the need to improve and clarify the current language in the Regulations regarding under what circumstances the Commission has jurisdiction outside/beyond the 100 ft. review area. Mr. Bedini noted the Town of Roxbury regulates activities within 500 ft. of wetlands and watercourses and Mr. Picton noted Burlington regulates activities within 200 yards. It was noted that the Roxbury Inland Wetlands Commission has jurisdiction over groundwater and also has a category for degraded wetlands.

**Regional School District #12/159 South Street/Outdoor Track:** Mr. Bohan asked if a bond would be required, noting the work would be closer to wetlands than that at Rumsey Hall School. Mr. Picton said this would be discussed at the next meeting.

Communications

It was noted the 2004 Municipal Inland Wetlands Report was available for review.

MOTION: To enter Executive Session to discuss pending litigation. By Mrs. Hill, seconded by Mr. Bedini, and passed 5-0.

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

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

Mr. Picton adjourned the meeting at 9:35 p.m.

FILED SUBJECT TO APPROVAL

Respectfully Submitted, Janet M. Hill, Land Use Coordinator