

March 12, 2008

MEMBERS PRESENT: Mr. Bedini, Mrs. Hill, Mr. LaMuniere, Mr. Thomson

MEMBER ABSENT: Mr. Picton

ALTERNATE PRESENT: Mr. Wadelton

ALTERNATE ABSENT: Mr. Bohan

STAFF PRESENT: Mr. Ajello, Mrs. Hill

ALSO PRESENT: Mr. Smith, Atty. Malley, Ms. Barbieri, Atty. Coploff, Ms. Habib, Atty. Fisher, Mr. Lyon, Mr. Lasar, Mr. McGowan, Mr. Neff, Mr. Nadeau, Mr. Clark, Mr. McMorrow

Mr. Bedini called the meeting to order at 7:00 p.m. and seated Members Bedini, Hill, LaMuniere, and Thomson and Alternate Wadelton for Mr. Picton.

MOTION: To include subsequent business not already posted on the agenda: New Application: C. Slaymaker/17 Sunset Lane/#IW-08-13/Violation - Septic Repair and Addition to Dwelling, Other Business: D. Executive Session to Discuss Pending Litigation, and Enforcement: Q. Lancaster/244 West Shore Road/#IW-07-16V/ Unauthorized Clearing. By Mrs. Hill, seconded by Mr. Thomson, and passed 5-0.

Consideration of the Minutes

The 2/27/08 Regular Meeting minutes were accepted as corrected.

Page 3: Newman: 2 lines from end: Change: "to scale" to "...accurate because the wetlands were not located by a soil scientist, but this may be sufficient for the purposes of this application...."

Page 3: Fleishmann: 14th line from bottom: Change: "this map" to "the Riordan map...."

Page 5: Rumsey Hall: 16th line: Insert after "crushed stone:" "and recharge structures...."

Page 8: Under Communications: Insert after "Report:" "from the Ct. DEP...."

MOTION: To accept the 2/27/08 Regular Meeting minutes as corrected. By Mrs. Hill, seconded by Mr. Wadelton, and passed 4-0-1. Mr. LaMuniere abstained because he had not attended the meeting.

MOTION: To accept the Freese 3/5/08 site inspection minutes as written. By Mrs. Hill, seconded by Mr. Bedini, and passed 4-0-1. Mr. LaMuniere abstained because he had not attended the inspection.

MOTION: To accept the Del Nin 3/5/08 site inspection minutes as written. By Mr. Thomson, seconded by Mr. Bedini, and passed 4-0-1. Mr. LaMuniere abstained because he had not attended the inspection.

MOTION: To accept the DiBenedetto 3/5/08 site inspection minutes as written and photographed. By Mrs. Hill, seconded by Mr. Bedini, and passed 4-0-1. Mr. LaMuniere abstained because he had not attended the inspection.

Pending Applications

Newman/20 Painter Ridge Road/#IW-08-04/Drainage Improvements, Driveway Renovation: Mr. Ajello reported that the \$30 state tax had been paid and that the application was now complete.

MOTION: To approve Application #IW-08-04 submitted by Mr. Newman for drainage improvements and driveway renovation at 20 Painter Ridge Road. By Mrs. Hill, seconded by Mr. Thomson, and passed 4-0-1. Mr. LaMuniere abstained because he had not been present during previous discussions of this application.

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

Caboose: Mrs. J. Hill said she had sent Mr. Fleishmann a letter listing all of the information the Commission had requested. Mr. Ajello said there had been no response. Mr. Thomson noted that he would ask Mr. Fleishmann for permission to inspect the possible vernal pool. Further discussion was tabled.

Freese/187 Shearer Road/#IW-08-06/Construct House: Mr. Neff, engineer, noted that since the site inspection, he had revised the plans to include a barricade fence along the limit of disturbance line near the wetlands. The map, "Proposed Site Plan," by Mr. Neff, revised to 3/6/08 was reviewed. Mr. Ajello was concerned that drainage from the construction site would run onto Shearer Road and recommended the installation of an anti tracking pad at the driveway entrance even though Shearer Road is a dirt road. Mrs. D. Hill noted this was an area that was not under the Commission's jurisdiction. Mr. Bedini asked if Mr. Neff would oversee the project. Mr. Neff said he would only if it were made a condition of approval. It was the consensus of the Commission that the anti tracking pad would be made a condition of approval and Mr. Neff said he would submit a revised plan.

MOTION: To approve Application #IW-08-06 submitted by Mr. Freese to construct a house at 187 Shearer Road with the condition that a 20 ft. long anti tracking pad must be installed at the driveway entrance from Shearer Road. By Mr. Bedini, seconded by Mrs. Hill, and passed 5-0.

Region #12 School District/159 South Street/#IW-08-07/Reconstruct Track: A representative from Milone and MacBroom stated there had been no revisions to the plans since the last meeting. The map, "Site Plan - Layout," by Milone & MacBroom, dated 12/15/08 was reviewed. He noted the bleacher pad would be composed of compacted crushed stone and he wrote this on the plan and initialed and dated the revision. Mrs. D. Hill stated that the plan was basically the same one that had been approved by the Commission in 2000.

MOTION: To approve Application #IW-08-07 submitted by Region #12 School District to reconstruct the outdoor track at 159 South Street as indicated per the plans, "Reconstruction of Running Track," 8 sheets, by Milone and MacBroom, revised with handwritten notes to 3/12/08. By Mr. Bedini, seconded by Mr. Thomson, and passed 5-0.

Rumsey Hall School/200 Romford Road/#IW-08-08/Construct Dormitory and Hockey Rink and Extend Driveway: Mr. Bedini noted the receipt of the 3/12/08 letter from Land Tech, which stated that the latest revisions to the plans adequately addressed Land Tech's recommendations and the Commission's concerns. Mr. Smith, surveyor, said the applicant had nothing to add. The map, "Cover Sheet and Location Map," by Smith & Co., revised to 2/25/08 was reviewed. Possible conditions of approval were discussed at length with Mr. Smith and Ms. Habib, Business Manager, and the following motion was made:

MOTION: To approve Application #IW-08-08 submitted by Rumsey Hall School to construct a hockey rink and dormitory, and extend the driveway at 200 Romford Road subject to the following conditions: 1. a monitoring plan shall be implemented, which shall include weekly reports to the Inland Wetlands Commission on site progress, condition, stability, and erosion and sedimentation control measures status until full stabilization of the site, including revegetation, has been completed, 2. a \$20,000 bond shall be posted to guarantee full completion of the work specified and any remediation, restoration, or additional protective measures, which may become necessary during the duration of the project; the bond may be released in stages, with some amount retained to secure the longer term provisions and contingencies for remedial work, 3. reimbursement shall be paid to the Commission for the costs of its consultant, and the school shall continue to reimburse the Commission's costs for review of project compliance, 4. a report on the completion of the project and an as-built verification by the project engineer shall be submitted to the Commission and it shall be confirmed by a site inspection and report

from the Commission's engineer upon completion of the project, 5. at the one year anniversary following full stabilization of the site, a report from the project engineer on the performance of the storm runoff and erosion and sedimentation control measures shall be submitted to the Commission and a site inspection may be scheduled for the Commission, the WEO, and/or the Commission's consultant. By Mr. Bedini, seconded by Mrs. Hill, and passed 4-0-1. Mr. LaMunier abstained because he had not been present for most of the discussion of this application.

Mr. Bedini thanked Rumsey Hall School for its cooperation and asked that a long range, overall plan be submitted for the Commission's review. He said it was the Commission's goal to avoid reviews done in a piecemeal approach.

Del Nin/32 Wykeham Road/#IW-08-09/Inground Pool: Mr. Neff, engineer, presented his revised plans, "Soil Erosion and Sediment Control Plan," revised to 3/6/08. He had added a silt fence along the turn in the driveway as requested and a barricade fence to control the work zone. He noted, too, that the plans called for a temporary hay bale barrier to be installed at the end of each work day across the entrance of the construction access. Mr. Thomson thought Mr. Neff had done a good job drafting plans to protect the wetlands during construction.

MOTION: To approve Application #IW-08-09 submitted by Mr. Del Nin to install an inground pool at 32 Wykeham Road per the plans, "Soil Erosion and Sediment Control Plan," by Mr. Neff, revised to 3/6/08. By Mrs. Hill, seconded by Mr. Bedini, and passed 5-0.

Gruson/62 Frisbie Road/#IW-08-10/Pond Maintenance: A site inspection had not been scheduled at the last meeting because the ground had been covered with snow. Mr. Neff, engineer, noted there was a conservation easement on the property and that the Roxbury Land Trust had OK'd the proposed activity. Mr. Bedini asked if a planting plan had been submitted. Mr. Neff and Mr. Ajello said they had discussed the possibility of a planting plan with the owner who was now considering his options. It was noted that the pond would not be cleaned until the dry season and so there was no hurry to act on the application.

New Applications

Klauer/102 East Street/#IW-08-11/2 Lot Subdivision: Atty. Fisher presented the map, "Proposed Site Development Plan," by Mr. Neff, dated 2/15/08. He noted the location of the approximate 80 acre parcel, and said that except for two building envelopes the property was under a conservation easement in favor of Steep Rock. He said that a portion of the larger building envelope was within the regulated area, although there were no activities proposed there. He said that the owner understood that a permit would be required if an activity were proposed in this area in the future. Mr. Bedini asked if there was a house site in the building envelope that was both out of the regulated area and that met the zoning requirements. Atty. Fisher said there was. He added that the property was very level and so there would be no runoff problems. Mrs. D. Hill thought the subdivision application was feasible, but advised the applicant that the Commission would have to approve specific plans once they were proposed for the site.

MOTION: To approve Application #IW-08-11 submitted by Ms. Klauer for a two lot subdivision at 102 East Street as a feasible subdivision as no regulated activities are proposed and it appears there is plenty of room for development, with the condition that when the lot is to be developed the Commission shall review the plans. By Mrs. Hill, seconded by Mr. Bedini, and passed 5-0.

Enforcement

Andersson/35-45 Gunn Hill Road/Unauthorized Clearing, Trenching in Wetlands: Atty. Fisher advised the Commission that Mr. Sabin, landscape architect, had proposed the creation of a "pot pond" as an easy way to increase the size of the wetlands and to simultaneously get rid of the phragmites. He

asked the commissioners to discuss this proposal with Atty. Zizka.

New Applications

Town of Washington/59 East Shore Road/#IW-08-12/Compressor Shed: Mr. Lyon, First Selectman, Mr. Lasar, architect, and Mr. McGowan, Director of the Lake Waramaug Task Force, were present. It was noted that although the compressor building was one component of the overall plan for the Town Beach, it was being applied for separately time because the compressor had to be relocated and in operation by June 1. Mr. Bedini asked if there would be a line from the compressor to the lake. Mr. Lyon said it had already been partly installed and Mr. McGowan said its location would not change. The plan, "Compressor Building Site Plan," by Mr. Lasar, dated 3/8/08 was reviewed. Mr. McGowan pointed out that the existing retaining wall would be relocated and have a slightly different alignment and that the foundation for this building and the renovated beach house would be done at the same time. The location of the compressor building between the retaining wall and the beach house was noted. The map, "Boat Ramp," by Mr. Wilson that had been approved for Phase I was also reviewed as were the elevations and floor plans by Mr. Lasar dated 2/20/08 and plans by Mr. Sabin, landscape architect, that were not to scale. Mr. Lasar stated that the building would be one story on slab with the floor elevation at 698. Mr. LaMuniere stated that the compressor was integral to the health of the water quality of the lake. Interested commissioners will inspect the site on their own before the next meeting.

Slaymaker/17 Sunset Lane/#IW-08-13/Septic Repair and Addition to Dwelling: Ms. Barbieri, agent, Mr. Nadeau, contractor, Mr. McMorrow, engineer, and Atty. Malley were present. Two maps, "Wetland Mitigation Plan - Alternate #1," by Ms. Barbieri, dated 2/7/08 and "Wetland Mitigation Plan," also by Ms. Barbieri, dated 2/7/08 were presented. Ms. Barbieri gave a brief history of the violation; the non authorized installation of curtain drains in a wetlands. She pointed out where the curtain drain presently empties and proposed that this area be rock lined so the runoff would dissipate into the ground. She noted the property is 95% wetlands and that the existing 16' X 24' house had been built in the wetlands. Mr. Slaymaker proposed to repair the failing septic system and to construct a 32' X 24' addition to the dwelling. Ms. Barbieri noted that it would not be known until the curtain drains had been monitored through the end of May, which of the proposed septic repair plans would be required by the Health Department. If they were found to work effectively, then a compact 2 BR system with less impact to the wetlands could be installed. In contrast, if they were not effective, 60 feet more of the woods would have to be cleared and three 85' long leaching fields would have to be positioned at least 50 ft. apart down grade of the house. Ms. Barbieri reviewed the "Wetland Mitigation Notes" included on both of the above referenced plans and Mr. McMorrow reviewed the curtain drain specifications. He noted that the current water table is at 10" and it was hoped the installation of the curtain drains would lower it to 18". Mr. Thomson thought the application should be delayed until it was known which plan would be applied for, but Atty. Malley said that since the existing septic was failing, the applicant did not want to wait to begin the permit process. Ms. Barbieri noted that a Wetlands permit would also be required for the proposed addition. Mr. Ajello asked if the front yard had been considered for the septic system. Mr. McMorrow said the well was located in front of the house. Mr. Ajello noted there were better soils in front and suggested that the Health Dept. could require the abandonment of the well so that the septic could be installed there. Mr. Bedini asked if a basement was proposed for the addition. Mr. Nadeau said the proposed basement would match the height of the existing basement and that it would resemble a crawl space. Mrs. D. Hill asked if the addition was necessary. Ms. Barbieri stated the addition would add living space, not bedrooms and Mr. McMorrow noted it would be two stories. It was noted the total footprint of the proposed dwelling would be 1152 sq. ft. and its total living area 1920 sq. ft. Mrs. D. Hill asked if that much space was needed. Mr. McMorrow stated that the new septic system would be installed during the dry season whether or not the addition was approved. Mr. Ajello noted that the curtain drain now empties into a basin only 15 feet from the stream that flows

through the property and asked why it was so close. Mr. McMorrow agreed to move it away and to stagger the galleys so the curtain drain would not have to be extended. Ms. Barbieri briefly discussed feasible and prudent alternatives and asked whether a smaller addition would make that much difference to the wetlands. However, she said she would ask Mr. Slaymaker to consider "tightening up" the plans for the addition and/or would consider moving the septic system farther from the stream. Mrs. D. Hill noted the Commission had never denied an application for a septic repair, but said the proposed size of the addition was a problem for her. Mr. Bedini and Mr. LaMuniere agreed, especially because it would be entirely in the wetlands. Mr. LaMuniere stressed that the Inland Wetlands Commission and Health Dept. should work closely together on this application. Mr. Thomson expressed his concern that effluent was currently reaching the stream and asked if some kind of preventative measures could be taken such as the installation of a portable toilet. Mr. Ajello thought that even though the house with addition would still have only two bedrooms, that the increase in size would allow it to be used by more people. He also asked if the proposed septic and addition would cause a significant impact to the wetlands and whether the Commission would schedule a public hearing. In addition to considering a smaller house, Mr. Bedini asked the applicant to consider whether the septic plans could be improved by relocating the well.

Other Business

Aragi/9 Wilbur Road/Preliminary Discussion/Trenching: Mr. Clark, engineer, presented Sheet 3 of 3 of the "Test Curtain Drain Plan," by CJOJ, LLC., dated 2/29/08. The purpose of the two proposed curtain drains, he said, was to determine whether the groundwater level could be lowered in the areas proposed for the septic systems. He noted the nearest wetlands were 192 feet from the proposed trenches and he described how the trenches would be installed. They would be 5 ft. deep and 170 - 175 ft. long, a synthetic filter fabric would be used in each, modular pipes would be surrounded by porous material and the filter fabric, only a small track excavator and bob cat machine would be used, and the equipment would be brought in over existing trails. Mr. Ajello said he thought the testing was a non regulated activity. The commissioners agreed and Mr. Bedini stated that after a review of the map the Commission had determined the proposed activity would cause no impacts to the wetlands.

Slaymaker/17 Sunset Lane/#IW-08-13/Repair Septic System, Construct Addition: Mr. Thomson noted the failing septic system was flowing into the watercourse and so asked if in the interests of protecting the wetlands, the worst case scenario septic plan should be installed immediately rather than waiting to see if the best case scenario could be installed in July. Mr. Bedini did not know whether the Health Dept. would sign off on the worst case system before all of the curtain drain data was in. He wondered why the Health Dept. allowed the owner to continue to live in a dwelling with a failing septic. Mr. Ajello noted that the Health Dept. could order that the septic tank be pumped out on a weekly basis and Mr. Bedini and Mr. Thomson asked him to contact the Health Dept. as soon as possible to ask that it issue such an order. It was the consensus that if the Health Dept. did not order that the tank be pumped, the Commission would consult Atty. Zizka regarding what measures it could take on its own to protect the wetlands. Mr. Ajello noted there was evidence in the file that the system had failed in the 1990's but had never been repaired. Mr. LaMuniere questioned whether the property owner had the right to more than double the size of his house, which is located in wetlands. Most of the commissioners agreed with Mr. Ajello that the proposed activities were significant and that a public hearing should be scheduled. Mrs. D. Hill was the lone dissenter because she did not think the addition was significant and there was no question that the septic system had to be repaired. Mr. Ajello will check to determine whether the Slaymaker property is within 500 ft. of the New Milford town line.

Other Business

Steep Rock Assn./124 Christian Street/#IW-08-01/Changes to Permit: Mr. Ajello noted that an application to eradicate reed canary grass had been approved earlier this year. Steep Rock had been

given permission to first mow the infested area with conventional equipment when the ground was frozen and then to spray the new growth in April. However, the ground never sufficiently froze. Steep Rock then asked for permission to use low impact equipment similar to a small track excavator to do the mowing. Mr. Bedini noted that track equipment puts very little pressure on the ground. Mrs. D. Hill said that the revisions to the permit should be specified in writing for the file and she asked Mr. Ajello to make sure this was done

MOTION: Re: Permit # IW-08-01 issued to Steep Rock for herbicide application at 124 Christian Street, to allow Steep Rock to change the equipment to be used because there is no apparent negative impact to the wetlands with the change in equipment. By Mr. Bedini, seconded by Mr. LaMuniere, and passed 5-0.

Pasch/29 Buffum Road/Aquatic Pesticide Permit: Mr. Ajello said he had notified both the homeowner and the agent that a local permit is required and that the other property owners around Lemonade Lake would have to grant permission for the application of the pesticide. To date there has been no response.

Enforcement

Lancaster/244 West Shore Road/Tree Removal/#IW-07-16V: Mr. Ajello circulated photos of the clearing and limb cutting and of the stumps and brush removed from the bank of the lake and compared them to photos that he had taken last year of the same area. He said he was concerned that the natural buffer along the shoreline was not being maintained. It was noted that a notice of violation had been sent and that the property owner had been told to stop cutting. Mr. Bedini suggested that a site inspection be scheduled, but Mr. Ajello said that Mr. Lancaster was consulting with his attorney before granting permission for an inspection. Mr. Ajello recommended that a citation be issued to both the property owner and to the contractor. Mr. Bedini asked Mr. Ajello to wait 3 or 4 days and then to contact Mr. Lancaster by letter to reiterate that he agreed to stop cutting and to tell him that he should not proceed with any additional regulated activities along the shoreline until he hears from the Commission.

Brown/127 West Shore Road/Unauthorized Work Along Shoreline: Atty. Zizka has been asked to begin legal proceedings.

DiBenedetto/212-214 Calhoun Street/Restoration of Understory: Mr. Ajello reported that Mr. Allan had inspected the site since the last meeting and had said the work done was what Mr. DiBenedetto had been directed to do. Mr. Thomson and Mrs. D. Hill thought that too many trees had been cut down if the goal was to maintain the forest. She noted that she had observed that bluebirds were now nesting in the cleared area and said that bluebirds do not nest in forests. When the Commission meets on site with Land Tech the agenda will be noticed as a discussion on forest management practices so that the matter may be freely discussed.

Lodsin/78 Litchfield Turnpike/#IW-07-V12/Unauthorized Excavation: This file has been sent to Atty. Zizka to begin enforcement action.

Peloquin/1 New Preston Hill Road/#IW-07-V13: Mr. Ajello noted the disturbed soil was still bare and said he would call Mr. Peloquin to ask that it be stabilized.

Plourde/East Shore Road: Mr. Ajello reported that Mrs. Smith, adjoining property owner, had asked that this property be cleaned up. It was noted a notice of violation had already been filed on the Land Records.

Mnuchin/Nettleton Hollow Road/DEP Aquatic Pesticide Permit: Mr. Ajello explained that Mr.

Mnuchin had been notified that an Inland Wetlands permit is required.

Etherington/49 Wheaton Road/#IW-07-V15/Maintenance of Sediment Pond: Mr. Bedini noted that at the last meeting Mr. Ajello had been asked to determine whether Mr. Etherington had exceeded the scope of his permit and so should be issued a citation. Mr. Thomson noted that Mr. Etherington had used equipment that was too large, and that this had caused more disturbance than would normally have been expected. Mrs. D. Hill asked if the scope of the work done exceeded the permit. Mr. Ajello said he wouldn't have issued a notice of violation if it had not. Mrs. D. Hill said, then, that per the request made at the last meeting, a citation should be issued.

Moore/25 Litchfield Turnpike/unauthorized Clearcutting, Filling: Mrs. D. Hill asked what the next step would be to collect the citation issued to Mr. Moore. Mr. Ajello said he would send a letter, Mr. Moore would have ten days to respond to it, and if there was no response the matter would be sent to the Commission's attorney for legal action.

Administrative Business

Revision of Ordinance #720: Fine Schedule: Mr. Bedini asked Mrs. Hill to find out whether the revised fine schedule is on the agenda for the 3/20 Town Special Meeting.

Revision of the Regulations: Once the fine schedule is approved at a Town Meeting, the subcommittee will finalize the revision of the Regulations and a draft will be circulated so that all of the commissioners will have an opportunity for input.

Revision of the Application Form: Mrs. Hill was asked to email the commissioners a copy of the final form.

Communications

Mr. and Mrs. Wellings sent a letter dated 3/10/08 to complain about construction site maintenance around Lake Waramaug. Mr. Ajello said he had checked the sites they complained about and only one had an erosion problem.

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

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

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

Mr. Bedini adjourned the meeting at 11:03 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill, Land Use Coordinator