

May 14, 2008

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

ALTERNATES PRESENT: Mr. Bohan, Mr. Wadelton

STAFF PRESENT: Mr. Ajello, Mrs. Hill

ALSO PRESENT: Mr. Neff, Mr. Rosiello, Mr. Gambino, Mrs. Peckerman, Mr. Osborne, Mr. Kistela, Mr. Dunlap

Mr. Picton called the Meeting to order at 7:15 p.m. and seated Members Bedini, Hill, LaMuniere, Picton, and Thomson.

MOTION: To add the following subsequent business to the agenda: V. New Applications: J. Kistela/ 73 Dark Entry Road/#IW-08-28/Single Family Dwelling, K. Gray-Dunlap/26 Painter Ridge Road/#IW-08-29/Correct Violation, Planting. By Mr. Bedini, seconded by Mrs. Hill, and passed 5-0.

Consideration of the Minutes

The 4/23/08 Regular Meeting minutes were accepted as corrected.

Page 1: 2 lines from bottom: Add: "on the haul road" after "remain in place."

Page 3: Under Redstone: in motion: insert a comma after the first "that" and delete the second "that."

Page 3: Under Lancaster: 5th line: insert: "additional" before "enforcement action."

MOTION: To accept the 4/23/08 Regular Meeting minutes as corrected. By Mr. Bedini, seconded by Mr. LaMuniere, and passed 5-0.

Mrs. D. Hill asked if John Dorr Nature Lab had paid the required \$25 fee for the revision to its permit that had been approved at the last meeting. It was the consensus the fee was required. Mr. Ajello will check on this.

Pending Applications

Lancaster/244 West Shore Road/#IW-08-17/Replace Floating Dock: Mr. Neff, engineer, noted on his map, "Floating Dock Replacement Plan," revised to 5/7/08, the revision that had been made since the last meeting. The length of the catwalk was increased from 14 ft. to 22.5 ft., but the total area was still under the 360 sq. ft. maximum allowed under the Zoning Regulations. He noted neither the size of the dock or the float had changed and the location of the anchorage was the same. He briefly reviewed the list of materials to be used and the sequence of construction, which, he noted, included the removal of the existing concrete pier.

MOTION: To approve Application #IW-08-17 submitted by Mr. and Mrs. Lancaster to replace a floating dock at 244 West Shore Road per the plan, "Floating Dock Replacement Plan," by Mr. Neff, revised to 5/7/08. By Mr. Bedini, seconded by Mrs. Hill, and passed 5-0.

Pinover/12 Senff Road/#IW-08-18/Retaining Walls, Landscaping: Mr. Rosiello, contractor, stated that since the last meeting he had met with Mr. Ajello on site. The site plan, "Retaining Fieldstone Walls and Planting on the Pinover Residence," by Rosiello Designs, LLC., dated April 2008 was reviewed. Mr. Ajello stated that he had not observed wetlands other than those already indicated on the plan and that the brook had no wetlands associated with it. Mr. Rosiello noted the pond was set back approximately 350 ft. from the road on the adjacent property. Mr. Rosiello proposed to bring in the building materials from the adjoining property over an existing driveway to avoid having to maneuver over the steepest part of the property. He also pointed out an area by the large oak where he proposed to

remove some of the invasives and replace them with native shrubs. It was the consensus the proposed work would not impact the wetlands.

MOTION: To approve Application #IW-08-18 submitted by Mrs. Pinover for retaining walls and landscaping at 12 Senff Road per the plan by Rosiello Designs, LLC. dated April 2008. By Mr. Bedini, seconded by Mrs. Hill, passed 5-0.

New Applications

Mr. Picton noted there were five aquatic weed control applications. He said the Commission would consider these ponds in relation to other wetlands and watercourses and would consider whether they would overflow during the active life of the herbicide applied.

Douglas/68 Painter Ridge Road/#IW-08-19/Aquatic Weed Control: Mr. Gambino, contractor, represented the property owner. Mr. Ajello submitted two photos of the Douglas ponds. Mr. Picton asked if the ponds were in the course of a flowing stream. Mr. Gambino stated there were adjacent wetlands and that the outflow usually flows. Mr. Picton asked how long the chemical to be applied would remain active. Mr. Gambino stated that would depend on what Mr. Douglas wanted to remove from the pond, but if Diquat was used, it would last one week to ten days, during which time fishing and irrigation would not be permitted. He said he would wait to apply the chemical until the pond level dropped below the outlet level and the forecast was for dry weather so there would be no outflow while the chemical was active. He noted the DEP had already approved this application. Mr. Gambino added that since he had treated this pond last year, he did not expect to see any growth now, but had filed the paperwork so he would be prepared if another chemical application was needed this year. Mr. Picton noted that not all weeds in ponds are bad; that some contribute to the habitat and ecology of the pond. Mr. Gambino stated that he makes a distinction and treats only the plants to be removed. He detailed several different kinds of chemical treatments. Mr. Picton proposed that before any chemical application in a pond, that Mr. Gambino ensure the pond will not overflow for 1.5 times the length of the chemical's active life. He said this would protect downstream property owners. Mr. LaMuniere asked if it was possible to block the outflow while a pond was being treated. Mr. Gambino said he could either stop the inflow or block the outflow. He said, too, that he always considers the forecast for rain in the coming week, adding that in the case of a sudden thunderstorm, the outflow from the pond would be diluted. Mr. Ajello asked if the flow from the Douglas pond could be stopped for a suitable period. Mr. Gambino stated that the larger Douglas pond flows into the smaller one, which he does not treat. Mrs. D. Hill asked for more information regarding how this area is connected to Sprain Brook. Mr. Gambino said the chemicals would have dissipated by the time any runoff reached the brook. Mr. Picton asked that the watercourse and its direction of flow be indicated on the map. It was noted the application included a letter of authorization from Mr. Douglas.

Gootrad/187 Wykeham Road/#IW-08-20/Aquatic Weed Control: Mr. Ajello presented a photo of the pond and said it was very shallow and thinly buffered. He thought other methods of maintenance for this pond would be a better idea. Mr. Picton stated the Commission prefers to see ponds with a robust ecology and a variety of native aquatic vegetation; conditions that yearly dredging and chemical applications do not promote. Mr. Gambino, contractor, stated that he treats each pond individually. He said there were carp in this pond and he would not treat it unless the carp did not do their job and the pond became overgrown. He noted he had applied for Diquat, Sonar, and copper sulphate, but said it was unlikely that he would apply all three. Mr. Thomson asked if barley straw could be used. Mr. Gambino said this can work on certain ponds, is fish friendly, and he had used it in the past. Mr. Picton said the Commission would like to see a program for pond maintenance that lessens the need for chemicals, lists alternatives for chemical application, and resorts to the use of chemicals only when the other alternatives don't work. Examples of alternatives, he said, were less mowing, use of less fertilizers, establishment of buffers, etc. Mr. Gambino agreed to write up such a program for each

Washington application. Mr. Picton said the same condition specified for the Douglas application would be made for this one; that before any chemical application is made, that Mr. Gambino ensure the pond will not overflow for 1.5 times the length of the chemical's active life.

Newman/266 Bee Brook Road/#IW-08-21/Aquatic Weed Control: Mr. Gambino, contractor, showed photos of the pond. He noted there was particulate matter in this pond, but he proposed an application of copper sulphate in case it was determined there was plankton present as well. He also noted that both the inflow and outflow of the pond were well done and could be controlled. Mr. Picton asked him to write up recommendations for non chemical maintenance and to identify what conditions contribute to the condition of the pond and how they could be ameliorated without chemicals. Mr. Gambino asked if a property owner followed the recommendations, but still had a problem, would the Commission then grant the permit for chemical application. Mr. Picton said, yes.

Mnuchin/218 Nettleton Hollow Road/#IW-08-22/Aquatic Weed Control: Mr. Gambino, contractor, presented photos of the pond before and after treatment two years ago. Mr. Ajello noted there are now more plants around the pond and that it has an outflow that was running at 4 gallons per minute earlier in the day. Mr. Gambino advised the Commission that this area is one of special concern on the DEP Natural Resources Data Base because there is a wood turtle and Jefferson salamander complex in the vicinity of the pond. Mr. Picton asked if the chemical spray would kill the animals. Mr. Gambino replied that he could not say, no, but it had never killed anything he knew of except fish. Mr. Picton stated in this case non chemical management techniques were very important and again asked that the chemical not be applied until/unless Mr. Gambino could ensure that the pond would not overflow for 1.5 times the length of the chemical's active life. He also asked that Mr. Gambino discuss the non chemical management recommendations with the property owner. Mr. Gambino said he dealt only with the property managers and did not know if this would be possible. Mrs. D. Hill asked for a live signature on the application form.

Canal/142 Sabbaday Lane/#IW-08-23/Aquatic Weed Control: Mr. Picton noted this pond is in a stream and asked if it could be treated without overflow during the time period 1.5 times the active life of the chemical. Mr. Gambino said it could and showed photos of the pond. He said he had investigated upstream, but could find nothing that could contribute to the condition of this pond. Mr. Ajello noted that last year neighbors had complained the brook was running black, said it appeared that improper management over many years by the property owner had contributed to the accumulation of muck on the pond bottom, and asked if the black water could have been caused by muck flowing over the drain. Mr. Gambino said that Mr. Canal had opened the outlet too far last year, which had caused the problem. He explained the pond had to be treated early because Mr. Canal uses it for irrigation later in the season. Mrs. D. Hill noted the other pond on the property could be used for irrigation, while this one was being treated. Mr. Picton asked for a comprehensive strategy for dredging part of the pond and for how it would be treated without overflowing. Mr. Gambino said he could try opening the outflow very slowly to lower the pond level. Mr. Thomson thought that the situation in the Canal pond differed from the other ponds discussed and so recommended that both short term and long term alternatives to chemical treatment be considered. The commissioners will inspect this site individually before the next meeting.

Peckerman/162 Sabbaday Lane/#IW-08-24/Pond Maintenance: Mr. Neff, engineer, presented photos of the pond dated 4/23/08. The plan, "Pond Maintenance Plan," by Mr. Neff, dated 5/6/08 was reviewed. He proposed to 1) clean out the existing silt basin, which is working well and full of sediment and 2) replace the failed stand pipe outlet. He explained that in mid summer when it was dry the pond would be pumped down so that first the basin could be cleaned and then the stand pipe replaced. He noted a detailed sequence of construction and erosion control plans were included. Mr. Neff said the horizontal pipe was in good condition and so the berm would not have to be removed. Mr.

Picton noted the proposed work was routine and the sediment basin appeared to be functioning well. Mr. Ajello noted the buffering around the pond could be improved. Mrs. Peckerman explained that she continued to maintain the area around the pond as had been done years ago when it was a cattle pond. Mr. Picton asked Mr. Ajello to review the application for completeness before the next meeting.

Bol/44 Slaughterhouse Road/#IW-08-25/Addition to Dwelling, Relocate Driveway and Garage:

Mr. Neff explained the owners proposed to demolish the garage, construct a new attached garage closer to the road, and renovate the house, which would include a new deck on the east side. Also, new stonewalls were proposed. On the map, "Proposed Site Plan," by Mr. Neff, revised to 5/3/08 he pointed out there were a lot of wetlands on the property. He noted the limit of disturbance and soil stockpile area and said a sequence of construction and project narrative had been submitted. Mr. Picton noted a compact limit of disturbance had been proposed. Mr. Ajello said he was concerned about protecting the wetlands on the opposite side of Slaughterhouse Road from construction vehicles and asked that it be fenced off. Mr. Picton recommended that the commissioners drive by the site on their own before the next meeting.

Jackson-Karger/69 Wykeham Road/#IW-08-26/Patio, Deck, Terrace, Hot Tub: Mr. Neff presented the map, "Property and Topographic Survey," by CCA, dated 8/9/07 and the area enlargement, "Rear Landscape Development," by Hoffman Landscapes, revised to 4/29/08. He noted that although the house site was dry, there were a lot of wetlands on the property and almost all of the proposed work was in the regulated area. In addition to the wetlands on one side of the house and the watercourse on the other, he pointed out a swale located behind it. A site inspection was scheduled for Wednesday, May 21, 2008 at 6:00 p.m.

Osborne/191 Nettleton Hollow Road/#IW-08-27/Addition and Deck: Mr. Osborne presented the site plan, "Addition and Deck," by Mr. Worcester, dated 11/27/07 and the soils report dated 5/9/08 and sketch map dated 5/11/08 by Mr. Temple. Mr. Ajello showed a photo taken of the rear of the property, which clearly showed the watercourse along the rear property line. He read the soil description from Mr. Temple's report. Mr. Osborne advised the Commission the proposed addition would be 12 ft wide and just 30 ft. from the boundary line. Mr. Picton noted that the Commission usually tries to keep construction out of the upland review area, but in this case, the area was already lawn, it was relatively level, and there was an existing house. Mr. Osborne said he did not have many options because the lot was only 1 acre and the addition was to enlarge the kitchen, which is located on that side of the house. He also noted there was a specimen tree he did not want to disturb on the opposite side. He said there would be no foundation; the addition would be on piers so there would be little ground disturbance. Mr. Picton said he could see no negative impacts and it was the consensus that a study of feasible and prudent alternatives was not needed. The application will be discussed again at the next meeting.

Kistela/73 Dark Entry Road/#IW-08-28/Single Family Dwelling: Mr. Kistela explained he was reapplying for a smaller house than had been originally approved five years ago and said the changes proposed would not in any way affect the wetlands. He presented the map, "Subsurface Sewage Disposal System," by Mr. Neff, revised to 5/8/08. Mr. Neff, engineer, said the driveway had been moved out of the regulated area. Mr. Kistela explained that there would not be a full basement under the rear three season sunroom and said a truck would pump the cement for the slab rather than drive down to that area. Mr. Picton asked Mr. Ajello if he had inspected the site for additional pockets of wetlands. Mr. Ajello said he had no concerns. Mr. Picton pointed out that a compact limit of disturbance was proposed. Mr. Kistela responded that he would limit the size of the lawn area. Mr. Neff advised the Commission that he had notified the Town of Bethlehem of the application as required.

Enforcement Report

Mr. Picton asked Mr. Ajello to routinely inspect ongoing work and to include these inspections in his

report.

Andersson/35-45 Gunn Hill Road/Unauthorized Clearing, Trenching in Wetlands: Atty. Fisher will finalize a proposal for the next meeting.

DiBenedetto/212-214 Calhoun Street/Restoration of Forest and Understory: Mr. Picton noted that an area of phragmites had been turned over by hand, but that this work did not comply with Land Tech's recommendations. Mr. Ajello said he had observed the work two weeks ago and had asked that silt fencing be installed. Mr. Picton noted that part of Land Tech's program was not to disturb soils in the wetlands and asked Mr. Ajello to stop all unauthorized activities that were not part of the program. It was noted that replanting had begun and that there were a few snags remaining and a few brush piles. Mrs. D. Hill requested that more than one snag per acre remain.

Slaymaker/17 Sunset Lane/Unauthorized Drainage and Excavation Work/#IW-07-V14: Mr. Ajello had not met with Mr. Slaymaker since the last meeting. He said he would begin enforcement action on this matter.

New Application

Gray-Dunlap/26 Painter Ridge Road/#IW-08-29/Correct Violation, Planting: Mr. Dunlap and Mr. Sabin, landscape architect, were present. Mr. Sabin described the front of the property as a wooded wetland corridor with upland islands between intermittent streams. He acknowledged there had been thinning in the wetlands last fall; mostly thinning of the understory and of invasives. Since that time, he said, the herbaceous plants were coming up nicely. He noted his plan for the restoration of the area included a project summary. Ornamental landscaping within the regulated area by the house and mitigation to reintroduce trees and wetlands vegetation in the wetlands back from the edge of the driveway were proposed. Six to seven stumps will be removed, 26 c. yards of stone will be used for the stonewall, and 60 to 70 c. yards of top soil will be spread within 8 ft along each side of the driveway. The site plan, "Proposed Landscape Restoration Improvements," by Mr. Sabin, dated 5/13/08 was reviewed. Mr. Picton noted that the driveway width looked reasonable and said he did not think that additional wetlands had been filled. The commissioners will individually inspect the site before the next meeting. After a brief discussion, it was the consensus that a bond was not needed. It was also the consensus that to be consistent, a citation should be issued.

Enforcement

Reinhardt and Cremona/Perkins Road/Execution of Approved Restoration Plan: Mr. Ajello noted that five or more spruce still had to be planted and said he was waiting for a response from Mr. Childs before inspecting the site.

Fowler/138 Nichols Hill Road/#IW-05-58/Remediation Per Order: Mr. Picton said that Mrs. Corrigan had asked if the ditch could be filled in from the east side, not the west, and that he had responded that the original instructions should be followed.

Peloquin/1 New Preston Hill Road/#IW-07-V13/Unauthorized Clearcutting, Excavation, Stonework: A restoration plan has not yet been received.

Slaymaker/17 Sunset Lane/#IW-07-V14/Unauthorized Drainage and Excavation Work: Mr. Bedini noted that a violation had taken place and asked if a citation had been issued. Mr. Ajello said an application was being prepared, but if it was not received, he would issue an enforcement order for replanting. Mr. Picton asked him to send a letter that a restoration plan is required due to the violation that occurred. He added that if an application is not submitted by the next meeting, a formal enforcement order should be issued.

Administrative Business

Revision of the Regulations: Mr. Bedini noted that all commissioners had received the draft regulations to review before the next meeting.

Revision of the Fine Ordinance: Mr. Picton advised the Commission that he had asked Mrs. J. Hill to send his proposed revisions to the Selectmen for their review, but the Selectmen had then expressed continued concern about what they considered to be an excessively high first time fine; an increase from \$120 to \$250. After a lengthy discussion the commissioners agreed to amend their proposal to the following: \$150, \$350, \$500, \$750, and \$1000. The complete revised proposed ordinance is attached.

Revision of Upland Review Area Definition: Mr. Bedini noted that this is addressed in the revised regulations under the definitions and regulated activity. Mr. Picton asked if it now incorporated the concept that it is extended in areas with steep slopes. Mrs. D. Hill said it did.

Consultant: Mr. Bedini noted that the Commission's 2008-09 Budget was a significant increase over this year's budget, but that the Board of Selectmen had stated that the consultant requested by the Commission would be from the Selectmen's budget, not the Commission's. It was the consensus that the Inland Wetlands Commission needs a consultant to review wetlands issues and organization. Mr. Bedini will talk to the First Selectman again.

Communications

The 4/29/08 letter from Ms. McCarthy, DEP Commissioner and the 1/23/08 memo from Mr. Robinson about aquatic pesticides permit applications were circulated. Mrs. D. Hill asked what would happen if the DEP approved an application, but the Commission denied it. Mr. Picton said the applicant could apply the chemical. It was thought, however, that the discussion with Mr. Gambino had been productive and that the Commission should continue to promote its policy of recommending alternate methods of pond maintenance.

Mr. Picton noted that he had received notification from the Dept of Health of its approval of Rumsey Hall's discharge into the groundwater.

Assigned Task Sheet: Mr. Picton asked Mrs. J. Hill if she continued to maintain this list. She said she did and that it was posted on the board in the Land Use Office.

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

Mr. Picton adjourned the meeting at 10:32 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill

Land Use Coordinator