

June 11, 2008

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

MEMBER ABSENT: Mr. Bedini

ALTERNATES PRESENT: Mr. Bohan, Mr. Wadelton

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

ALSO PRESENT: Mrs. Cooper, Mrs. Solomon, Atty. Strub, Mr. Klauer, Atty. Fisher, Mr. Szymanski, Mr. Neff, Mr. Talbot, Mr./Mrs. Evans, Mr. Lyon

Mr. Picton called the Meeting to order at 7:05 p.m. and seated Members Hill, LaMuniere, Picton, and Thomson and Alternate Bohan for Mr. Bedini.

MOTION: To add the following subsequent business to the agenda: New Application: A. Town of Washington/ 2 Bryan Plaza/#IW-08-36/Remove Invasives, Plant Native Plants and Enforcement: O. Evans/ 10 Church Hill Road/#IW-07-V19/Soil Disturbance Threatening Canoe Brook. By Mrs. Hill, seconded by Mr. LaMuniere, and passed 5-0.

Consideration of the Minutes

The 5/28/08 Regular Meeting minutes were accepted as corrected.

Throughout: Mr. Tittman is the correct spelling.

Page 2: 2nd line from bottom: Change: "goad" to "goal."

Page 12: Mrs. D. Hill noted that the commissioners should refer to the citation ordinance, not the fine ordinance.

MOTION: To accept the 5/28/08 Regular Meeting minutes as corrected. By Mr. LaMuniere, seconded by Mr. Picton, and passed 5-0.

MOTION: To accept the 6/3/08 Thorn site inspection minutes as written. By Mr. Thomson, seconded by Mrs. Hill, and passed 5-0.

The Town of Washington 6/3/08 site inspection minutes were accepted as corrected. "Scoop" should be "scour" throughout.

MOTION: To accept the 6/3/08 Town of Washington site inspection minutes as corrected. By Mrs. Hill, seconded by Mr. LaMuniere, and passed 5-0.

MOTION: To accept the 6/5/08 Wykeham Rise, LLC. site inspection minutes as written. By Mrs. Hill, seconded by Mr. Picton, and passed 5-0.

Pending Applications

Regarding the five pending aquatic weed control applications, Mr. Ajello reported that Mr. Gambino was not present and had not contacted him since the last meeting. A brief discussion followed. It was the consensus that the Commission did not favor chemical applications across the board and although it thought it should sometimes challenge DEP approvals, it noted it had tried to do so unsuccessfully in the past. Mr. Picton noted that in the future, specific concerns must be raised to the DEP. Mr. LaMuniere thought it was too late to contact the DEP with any concerns about the five pending applications since the DEP had already approved them, but urged the Commission to implement the procedures discussed at the last meeting and to contact the DEP with specific concerns about future applications in the spring. Mr. Picton noted that in his report, Mr. Ajello had made recommendations

about a few of the pending applications. The problem with the Mnuchin application, Mr. Ajello said, was that the Commission could not be sure the Jefferson salamanders and box turtles would not be in the pond area when the chemicals were applied. He noted, too, that other species and insects would be affected by the chemicals. He said there was not enough control over the chemical application process to trust it entirely. At the last meeting Mr. Gambino had stated that the chemicals to be used could kill other species so Mr. Picton said it was important that the pond not overflow during the active life of the chemicals. He pointed out that the chemicals poison the habitat that supports life. Mr. Thomson agreed with Mr. LaMuniere that the Commission should take immediate action as soon as it receives notice of a pending DEP application, but also thought that even though it was late this year, the Commission should go on record with its concerns and ask the DEP to cancel any permits that might cause significant problems.

Douglas/69 Painter Ridge Road/#IW-08-19/Aquatic Weed Control: Mr. Picton said he was not concerned about the flow through the pond in this case. Mr. Ajello said he had not noticed an outflow when he was on site. Mr. Picton said the pond was well contained and that the list of recommended alternate management methods would be sent to the property owner.

MOTION: To approve Application #IW-08-19 submitted by Mr. Douglas to chemically treat his pond to control aquatic weeds at 69 Painter Ridge Road subject to the following conditions: 1. the chemical(s) shall not be applied unless it is certain that the pond will not overflow for a period one and a half times the length of the period of chemical toxicity and 2. the application will be reviewed again next year in terms of the alternate management methods recommended by the Commission to the owner. By Mr. Picton, seconded by Mr. LaMuniere, passed 5-0

Gootrad/187 Wykeham Road/#IW-08-20/Aquatic Weed Control: Mr. Ajello thought this was a small pond that could be easily deepened and that it would be easy to contain the water during treatment. Mr. Picton did not want to recommend dredging and deepening ponds, which would change the nature of the pond, unless the material to be dredged was accumulated organic matter. Mr. Ajello said algae was the problem in this pond and it could be managed with barley straw. Mr. LaMuniere thought the pond was too shallow for the effective use of barley straw.

MOTION: To approve Application #IW-08-20 submitted by Mr. Gootrad to chemically treat his pond to control aquatic weeds at 187 Wykeham Road subject to the following conditions: 1. the chemical(s) shall not be applied unless it is certain that the pond will not overflow for a period one and a half times the length of the period of chemical toxicity and 2. the application will be reviewed again next year in terms of the alternate management methods recommended by the Commission to the owner. By Mr. Picton, seconded by Mrs. Hill, and passed 5-0

Newman/266 Bee Brook Road/#IW-08-21/Aquatic Weed Control: Mr. Ajello said that both the inflow and the outflow could be controlled in this pond. Mr. Picton noted that in this case the Commission did not know whether chemical treatment was warranted.

MOTION: To approve Application #IW-08-21 submitted by Mr. Newman to chemically treat his pond to control aquatic weeds at 266 Bee Brook Road subject to the following conditions: 1. the chemical(s) shall not be applied unless it is certain that the pond will not overflow for a period one and a half times the length of the period of chemical toxicity and 2. the application will be reviewed again next year in terms of the alternate management methods recommended by the Commission to the owner. By Mr. Picton, seconded by Mrs. Hill, and passed 5-0

Mnuchin/218 Nettleton Hollow Road/#IW-08-22/Aquatic Weed Control: Mr. Picton said this was an example of a pond where alternate methods of management should be used instead of chemicals. Mr. Ajello asked if there should be a review by an environmental expert since there were species of special concern here and the area was unspoiled. Mr. Picton asked if Mr. Gambino had drawn up a

complete list of alternate management methods for this pond and Mr. Ajello responded that he had submitted only the standard sheet. Mr. LaMuniere said that although they are in the area, salamanders do not breed in ponds. Mr. Thomson said he had spoken with one consultant who had advised him that the species of special concern were elsewhere on the property. Mr. Ajello pointed out that at a seminar Dr. Klemens had stressed the importance of linked vernal pool complexes and had stated that the 750 feet immediately surrounding a vernal pool was critical to the species that live there. The commissioners were uncomfortable with the DEP approval of this permit, especially because there were alternate management methods that could be used.

MOTION: To deny Application #IW-08-22 submitted by Mr. Mnuchin to chemically treat his pond to control aquatic weeds at 218 Nettleton Hollow Road because according to the expert who filed the application, there are alternate management methods that could be used and there are species of special concern in the area. By Mr. Thomson, seconded by Mrs. Hill, and passed 5-0.

(Motion approved, Application denied)

Mr. LaMuniere asked that notification of the Commission's denial be sent immediately to the DEP. Mr. Picton asked that the list of alternate management methods be sent to both the property owner and to the DEP.

Canal/142 Sabbaday Lane/#IW-08-23/Aquatic Weed Control: Mr. Picton noted that Mr. Gambino had not developed specific information on how to control the outflow from this pond. Mr. Ajello stated the pond had an underwater valve at the base of the dam, but that when open, as much sediment as water flows through it. He said downstream property owners had complained last year when the valve was opened. Mr. Picton was concerned about the applicant's ability to control the outflow because the chemicals could have downstream impacts. He noted that in addition to information on how the valve would be controlled, information on feasible and prudent alternative management methods was required.

MOTION: To deny Application #IW-08-23 submitted by Mr. Canal to chemically treat his pond to control aquatic weeds at 142 Sabbaday Lane because there are alternate management methods that may be used, the Commission has general concerns about the condition of the pond, there does not appear to be weed growth in the pond now, and the Commission is concerned due to complaints from downstream property owners last year when the pond valve was opened. By Mrs. Hill, seconded by Mr. Picton, and passed 5-0. (Motion approved, Application denied)

Mr. Picton asked that both the owner and the DEP be notified and sent a list of alternate management methods to consider.

Peloquin/1 New Preston Hill Road/#IW-08-30/Correct Violation, Planting: Mr. Ajello reported that the application was still incomplete. Mr. Picton suggested that if the disturbed areas were now vegetated and stable, this item could be taken off the agenda.

Wykeham Rise, LLC./101 Wykeham Road/#IW-08-31/Site Development for Inn: Mr. Picton said he would draft a list of additional information needed and concerns, both engineering and environmental, for the commission's consultant to address. Mr. Szymanski, engineer, submitted the consultant form and the \$5000 consultant's fee. Revised plans, "Site Development Plan for Wykeham Rise," by Arthur H. Howland & Assoc., 19 pp., revised to 6/11/08 were submitted. Mr. Szymanski said the plans now incorporated drainage details and associated reports, plans and profiles for each driveway, an erosion and sedimentation control plan that includes temporary and permanent maintenance schedules, and details on the detention ponds including designs, outlet structures, berms, and cross sections. He noted the ponds would permanently hold 3 to 4 feet of water. He said he would stake the limit of disturbance line in the vicinity of wetlands flags #49 and #50 and take photos of this

area, that the ecology report by Ms. Chase would be in by Friday, and the invasive plant management plan to supplement the landscaping plan would also be in by the end of the week. He noted that although at the last meeting it had been stated that all of the existing buildings would be demolished, there was a possibility that one along Bell Hill Road would remain. The proposed contours were discussed. Mr. Szymanski said there would be excavation to the back lines of the buildings and they would act as retaining walls. Mr. LaMuniere noted significant excavation was proposed. Mr. Picton asked the applicant for summary data including acreage of the property and the percentage of the property proposed for development versus left undisturbed, existing versus proposed area to be covered by structures, and the existing versus proposed amount of traveled surfaces. Mr. Szymanski said the property is 26.9 acres and 11 would be disturbed and that the other information requested was included in the drainage reports. The proposed pervious surfaced driveways were discussed. Mr. Szymanski noted that 70% to 80% of the proposed driveways would be pervious surfaced and that for the drainage calculations he was considering it conservatively and using TR55 methodology. Mr. Picton asked for figures comparing the perviousness of the pervious pavement versus that of natural vegetated areas. Mr. LaMuniere agreed this was important data for the Commission to consider. Mr. Picton also asked for the acreage of woodland to be removed versus woodland to be restored and the percentage of each. Mr. Picton briefly presented the list of concerns he had begun to draft for the consultants, which included an overlay map that showed "discretionary areas" that were proposed to be left undeveloped. He said he had found that only 4/10 of an acre was not proposed for development of all the acres that could have been developed. Therefore, he thought the plans required careful analysis. A public hearing was scheduled for 7:00 p.m. on Wednesday, July 23, 2008 in the Land Use Meeting Room, Bryan Memorial Town Hall to give Land Tech enough time to review the plans and the applicant time to respond to the initial review. Mr. Ajello advised the applicant that he may have to request an extension of the 65 day time period for commencing the hearing and said he would check into this.

Halfon-Alpert/40 Plumb Hill Road/#IW-08-32/Renovation, Addition to Dwelling: Mr. Ajello explained that the work area would encroach into the 100 foot setback, but there were no steep slopes to the wetlands or other concerns. The site plan, "Property/Boundary Survey," by Mr. Alex, dated March 2008 was reviewed. Mrs. D. Hill asked if the soil scientist's report had been submitted as the Commission had requested at the last meeting. Mr. Ajello said that no new information had been submitted. Mrs. Hill also noted that the minutes stated the applicant had been asked to place all relevant information on the map. Mr. Ajello suggested the application could be approved with conditions. Mr. LaMuniere made a motion to approve because he had inspected the site and had no concerns. There was no second.

MOTION: To table consideration of Application #IW-08-32 submitted by Halfon and Alpert for renovations and additions to the existing dwelling at 40 Plumb Hill Road. By Mr. Picton, seconded by Mr. Thomson, and passed 4-1. Mr. LaMuniere voted No because he thought the application was ready to be acted on.

Thorn/228 West Shore Road/#IW-08-33/Addition to Dwelling: Mr. Neff, engineer, and Mr. Talbot, architect were present. The map, "Soil Erosion and Sediment Control Plan," by Mr. Neff, revised to 6/6/08 to show an updated house footprint was reviewed. It was noted there would be no excavation required for the renovations on the north side of the house. On the south side where the addition was proposed, Mr. Talbot reported that the excavation would decrease because only a partial basement would be put in due to Health Dept. concerns. He advised the Commission that a variance would be required for the 4 foot addition proposed on the east and south side of the house. Mr. Ajello asked if the evergreens to be removed would be replaced. Mr. Talbot did not know, but said he thought the owners would want some kind of screening from the road. Mr. Picton thought the proposed limit of clearing and disturbance was adequate and that a durable barrier should be erected and maintained for the

duration of the project. Mr. Neff said it was not likely that equipment would go beyond this line because the land begins to slope at that point. Mr. LaMuniere and Mr. Thomson thought the plan was well thought out.

MOTION: To approve Application #IW-08-33 submitted by Mr. Thorn for the renovation of and an addition to the existing house at 228 West Shore Road per the map, "Soil Erosion and Sediment Control Plan," by Mr. Neff, revised to 6/6/08 subject to the condition that a limit of disturbance barrier shall be put in at the beginning and maintained throughout the project to prevent the expansion of the work area beyond that limit. By Mr. Picton, seconded by Mrs. Hill, and passed 5-0.

Lancaster/244 West Shore Road/#IW-08-34/Construct Patio, Abandon Cess Pool: The map, "Soil Erosion and Sediment Control Plan," by Mr. Neff, dated 5/24/08 was reviewed. It was noted that the Commission had raised no concerns at the last meeting.

MOTION: To approve Application #IW-08-34 submitted by Mr. Lancaster to install a patio and abandon the cess pool at 244 West Shore Road per the map, "Soil Erosion and Sediment Control Plan," by Mr. Neff, dated 5/24/08. By Mr. LaMuniere, seconded by Mr. Thomson, and passed 5-0.

Town of Washington/15 Couch Road/#IW-08-35/Drainage Improvements: Mr. Lyon, First Selectman, presented the map, "Drainage Improvement Plan," by Arthur H. Howland & Assoc., revised to 5/16/08. He proposed to divert the runoff from Route 202 into a new catch basin, which would run to a scour hole. It was noted that currently the runoff flows into the wetlands, whereas, after the catch basin and culvert are installed, it will run into the rip rapped lined scour hole where the sediment will settle. Mr. Picton asked if the scour hole could be cleaned out with a backhoe. Mr. Lyon said it could. Mr. Picton suggested it be made 12" deeper to facilitate its cleanout. Mr. Lyon drew in a "leak off" area that would drain into the scour area and signed and dated the revision.

MOTION: To approve Application #IW-08-35 submitted by the Town of Washington for drainage improvements at 15 Couch Road per the map, "Drainage Improvement Plan," by Arthur H. Howland and Assoc., dated 3/12/08 and as revised by hand by Mr. Lyon at the 6/11/08 meeting with the recommendation that the scour hole be made deep enough to trap sediment and to be cleaned out with a backhoe without disturbing the rip rap. By Mr. Picton, seconded by Mrs. Hill, and passed 5-0.

New Applications

Town of Washington/2 Bryan Plaza/#IW-08-36/Remove Invasives, Plant Native Plants: The maps, "Phase I and Phase II, Restoration Planting Plan," by Earth Tones, dated April 2008 were reviewed. Mr. Lyon, First Selectman, said the invasives choking the area behind the Town Hall would be removed by hand. Mr. Ajello read the proposed phasing of the project. Mrs. D. Hill noted that two copies of the plans were required, but only one had been received. A site inspection was scheduled for Tuesday, June 17, 2008 at 5:00 p.m. Mr. Lyon will ask Mrs. Corrigan to attend.

Other Business

Petition to Amend Zoning Regulations Re: Lot Coverage and Pervious Surfaces: Mr. Picton noted that he had already sent his personal opinions to the Zoning Commission, but asked the commissioners if they had any comments they wanted to make from the Inland Wetlands Commission. A discussion followed. The questions and concerns raised included: could too much infiltration impact the wetlands, how does infiltration on the installed pervious surface compare with that on natural undisturbed land, and how could it be guaranteed that the pervious surface would be properly installed and maintained to preserve its pervious quality forever. Mr. Picton noted a common statistic that when impervious surfaces exceed 10%, water quality begins to be impacted, but he did not know whether that applied to every situation or whether the increases in impervious surfaces that would be permitted per the proposed revisions would have any impact on water quality in sensitive areas. Mr. LaMuniere asked

how pervious surface was defined. Mr. Picton responded that it was a new technology with definite specifications. Mrs. D. Hill was concerned that oil and gas from vehicles would infiltrate as well as runoff and that the proposed language was too general. Mr. Ajello responded that hydrocarbons break down faster in pervious surfaces because more air can get in. Mr. Szymanski explained there were industry construction specifications. It was also noted there could be unintended consequences such as the infiltrated runoff affecting the function of septic systems on small lots. Mr. Picton thought the infiltration of runoff could be a big improvement in many cases, but that there were still uncertainties regarding the effects of increased lot coverage and equivalency of pervious surfaces and undisturbed land. Mr. LaMunier did not think there was enough known at this point for the Zoning Commission to act on the petition. Mrs. Cooper said the Zoning Commission would have to define which pervious products would be pervious forever, specify how they were to be maintained, and require that they never be paved over. She did not think the Town could control these kinds of requirements. Mrs. D. Hill noted these issues had already been discussed by the Zoning Commission. Mrs. Cooper asked if there were other issues like habitat that should be considered. Mrs. D. Hill thought there were too many outstanding questions at this point and so favored keeping all traveled surfaces included in the lot coverage calculation. Mr. Picton again noted his interest in finding out how the pervious surfaces compare with undisturbed land because vegetation has an impact on the function of wetlands. He said, for example, that vegetation affects the temperature of wetlands. Mr. Ajello thought that pervious surfaces could work well on pedestrian walkways. Mr. Picton said that, in general, reducing impervious surfaces was good as long as there was no corresponding increase in the developed area.

Enforcement

Evans/10 Church Hill Road/#IW-07-V19/Soil Disturbance Threatening Canoe Brook: Mr. Ajello said that he had issued a notice of violation because erosion control measures had not been installed, not even after he asked the contractor to put hay bales across the driveway. He said the severe storms experienced lately made it likely that sediment would reach the catch basin and flow into the brook. Mr. Evans said the situation was now under control because he had installed hay bales himself. Mr. Picton said a fine should be discussed. Mr. Ajello said he thought the contractor should be fined. Because it was not known whether the revised citation schedule was in effect, the contractor will be fined under the old schedule. Photos of the disturbed area were circulated. Mr. Ajello stated the problem was now under control.

Enforcement Report

Lewinter/86 Roxbury Road: It was noted the shed had been moved farther from the wetlands.

Hackney-Holiman/125 West Shore Road: The owners are considering replacing the existing wooden stairs with granite steps. All work would be within 10 feet of the shoreline and done by hand except the stones would be placed by a machine operated from the grassy bank. Mr. Picton did not consider this to be hardening of the shoreline. It was noted that a revision to the original permit would have to be approved.

Lodsin/78 Litchfield Turnpike: It was not known whether Mr. Lodsin had responded to the letter from the Army Corps of Engineers.

Mnuchin/218 Nettleton Hollow Road: It was the consensus that it would be irresponsible for the Commission to grant a routine approval for the chemical treatment of this pond.

Reinhart-Cremona/Perkins Road: Mr. Ajello reported that by the end of the summer it would be known whether the invasives had been controlled on the property and five more spruce would be planted. Mr. LaMunier asked for a status report from Mr. Childs at the end of the summer. Mr. Picton said he would like the planting completed as soon as possible.

Slaymaker/17 Sunset Lane: Mr. Ajello said an application would be submitted for the July meeting. It was noted that when/if a new septic system was installed it would be a good example of positive results when the Health Department and Inland Wetlands Commission cooperate.

Moore/25 Litchfield Turnpike: Mr. Ajello will check the plantings and make sure the disturbed areas are stabilized.

Wright/59 Scofield Hill Road: Mr. Ajello will make sure the hillside is stable before this matter is taken off the enforcement list.

DiBenedetto/212-214 Calhoun Street: It was noted the work had stopped. Mr. Ajello will ask Mr. DiBenedetto what his plans are for the summer. Mr. LaMuniere asked if plans had been submitted for removal of the phragmites. Mr. Ajello said they had not, but he thought the owner was considering repeated mowing. Mr. Picton noted this would be for the phragmites only, not for the entire forest. Mr. Thomson noted there was no report from Land Tech on either recommendations for the removal of the phragmites or its last site inspection. He asked that these reports be submitted for the record. There was a brief discussion on reforestation practices. Mr. Picton had a problem with cutting down the ash trees before they looked sick because they contribute to the forest and stabilize the soils. Mr. Thomson hoped the "re engineering" of the forest would result in healthier growth, more canopy, and greater diversity.

Baker/42 Wykeham Road: Mr. Ajello reported that he had issued an agent approval for reconfiguration of the existing parking area.

Jackson-Karger/69 Wykeham Road: Mrs. D. Hill asked if the conditions of approval had been followed. Mr. Ajello noted that a revised map had been submitted, but he did not know whether the soil scientist's report had been. Mr. Picton asked Mr. Ajello to review the map to make sure that all the requested information had been added to it and that the soil scientist's report was in.

Other Business

Revision of the Regulations: The commissioners were asked to complete their reviews of the first draft as soon as possible so that work could continue.

Hiring of a Consultant: The Selectmen will determine whether there are funds available in the 2007-08 budget or whether the hiring of the consultant will have to wait until after July 1. Mr. LaMuniere urged the Commission to follow up with the Selectmen on this request.

Communications

5/19/08 Letter from Rivers Alliance: This letter noted there was possible funding available for projects to preserve the Shepaug River and its watershed and requested specific ideas. Mr. Picton suggested controlling invasive plants and maintaining and enhancing the riparian buffer. Mr. Thomson thought these were good ideas and said the eradication of invasives could be used as a means to improve public relations. He proposed a "give back to the public" project whereby property owners could apply to the Commission for no fee and in return, the Commission would send a consultant to the property, again, no charge, to identify the invasives and offer advice regarding how they should be removed. Mrs. Hill was asked to contact Rivers Alliance to find out whether there was still time to apply for such a grant. Mr. Thomson volunteered to draft the specific proposal. He thought it would be a good idea to implement it whether or not the grant was approved. It would benefit the Shepaug and its watershed, educate the public, and improve the Commission's public relations.

Washington Times Article: Mr. Picton suggested a brief article on the revised citation schedule and after a brief discussion Mrs. Hill was asked to write it.

MOTION: To enter executive session at 9:32 p.m. to discuss pending litigation. By Mrs. Hill, seconded

by Mr. Thomson, and passed 5-0.

MOTION: To exit executive session at 9:42 p.m. By Mr. Picton, seconded by Mrs. Hill, and passed 5-0.

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

Mr. Picton adjourned the Meeting at 9:41 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill, Land Use Coordinator