

# November 12, 2008

## Regular Meeting

7:00 p.m. Land Use Meeting Room

**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. Charles, Atty. Strub, Mr. Szymanski, Ms. Zinick, Atty. Kelly, Mr. George, Mr. Diller, Mrs. Beckett, Mr. Lassard, Mrs. Federer

Mr. Picton called the Meeting to order at 7:06 p.m. and seated Members Bedini, Hill, Picton, and Thomson and Alternate Wadelton for Mr. LaMuniere. Mr. Picton announced that he would resign as Chairman tonight and would resign from the Commission after the next meeting.

**MOTION:** To add the following subsequent business not already posted on the agenda: New Application D. Town of Washington/112 Walker Brook Road South/#IW-08-58/Road Drainage Improvements; Other Business: Election of Officers. By Mr. Picton, seconded by Mrs. Hill, and passed 5-0.

## Consideration of the Minutes

The following corrections to the 10/22/08 Minutes were noted.

P. 2: Mrs. Hill abstained from the vote on the 10/9/08 Public Hearing minutes because she had not yet read them.

P. 5: 2nd full paragraph: 12th line: Add “for erosion control” after “ongoing construction.” 20th line: Add “in places” after “from the wetlands.” 32nd line: Insert “entirely” before “relied on.”

P. 6: End of 2nd paragraph: Add “and would draft a motion to deny” to the end of the last sentence.

P. 7: Reger motion: 7th line: Change “required” to “investigated.”

It was the consensus to wait until the next Meeting to vote on the Minutes because not everyone had had time to read them.

**MOTION:** To add the following subsequent business not already posted on the agenda: New Application E. Sen/116 Shearer Road/#IW-08-59/Addition to Dwelling, Renovations, Septic System, Driveway. By Mr. Picton, seconded by Mr. Bedini, and passed 5-0.

The 10/28/08 Conlon site inspection minutes were accepted as corrected. Insert after “driveway” to read, “...another possible route for the driveway and for the location of the garage should be explored.”

**MOTION:** To accept the 10/28/08 Conlon site inspection minutes as corrected. By Mr. Picton, seconded by Mrs. Hill, and passed 5-0.

Mrs. D. Hill advised the commissioners not to circulate site inspection minutes for comments prior to the Meeting unless they are marked “Draft.”

**MOTION:** To accept the 10/28/08 Buell site inspection minutes as written. By Mr. Picton, seconded by Mr. Bedini, and passed 5-0.

## Pending Applications

Conlon/6 Valley Road/#IW-08-53/Reconstruct Dwelling, Alteration of Garage, Addition to Barn, Septic

System:

Mr. Szymanski, engineer, presented the map, "Proposed B-100a Sanitary Disposal System Plan," by Arthur H. Howland and Assoc., revised to 11/12/08. He said that after the site inspection he had consider moving the garage to the south side of the house. He noted, however, that the Conlons had given their word to the adjoining property owners that the garage would be kept in its original location. Mr. Szymanski discussed the measures proposed to minimize the potential impacts. He noted that currently the roof runoff is untreated. He proposed to redirect runoff from both the house and garage to rechargers sized for a 100 year storm event. He proposed to remove a portion of the existing driveway and noted the renovations proposed for the garage would bring it approximately 4 ft. farther from the river. Mr. Szymanski stated that all construction would be done from the uphill side of the property and that as proposed, a minimal amount of regrading would be necessary. Mr. Ajello asked if plantings were proposed along the river. Mr. Szymanski responded that except for the area north of the well to be abandoned, he would have no problem with a requirement that the meadow be left natural and mowed only once a year. Mrs. Hill asked why the garage had to be so deep. She did not favor bringing it towards the river. Mr. Picton suggested an alternate location for the garage would be in the southwest corner next to the house where it would better conform to both the zoning and wetlands setbacks and result in a more compact development footprint. Mr. Szymanski said if it was built in that location, a retaining wall and approximately 500 sq. ft. of impervious surfaces would have to be added. Mr. Picton thought the structures should be sited to create the highest likelihood of wetlands protection. Mrs. Hill suggested moving the garage to the south. Mr. Szymanski thought this was a good idea because it would increase the separation distance to the river with only a minimal increase in impervious surface. Mr. Picton said a second alternative would be to attach the garage to the house. Mr. Bedini noted that would require less digging into the bank. Mr. Szymanski will consult with the owners and possibly return with a revised plan. Mrs. Hill highly recommended pre application advice for this type of discussion.

Buell/3 Findley Road/#IW-08-54/Addition, Enclose Porch, Deck, Spa, Above Ground Pool:

Ms. Zinick, agent, circulated photos of the property for those who had not attended the site inspection. She pointed out on the portion of the survey map, #1155, filed on the Land Records, the location of the 16' X 20' barn foundation where the hot tub with surrounding deck was proposed. She said the foundation would not be disturbed, the hot tub would be placed on the gravel area, and 2' X 8' framing would be built around it. She submitted a sketch and diagram. Mr. Picton asked why the hot tub was proposed only 25 ft. from the river and said alternate sites had to be discussed. He suggested that a patio be installed on the foundation and the hot tub be installed further away. Mrs. Hill agreed. Ms. Zinick said the land becomes wet and spongy as you go further north and that years ago there was a spring house and iron pipe in that area. Mrs. Hill said she found this area to be firm. Mr. Picton noted all of the other proposed activities were at least 50 feet from wetlands and encouraged the applicant to move the tub back, too. The additions to the dwelling were briefly discussed. Ms. Zinick noted the footings would be hand dug and the addition built on a slab. Mr. Picton noted the particulars of the site; the area to be disturbed is almost flat and is existing lawn so there was not much concern about erosion resulting from the work on the addition or enclosed porch. It was noted the following information was missing from the plans: 1) site conditions, 2) dimensions, 3) erosion controls, 4) limit of disturbance line. Mr. Picton asked that the floor plan be labeled and the dimensions be written on the site plan. Ms. Zinick drew in the limit of disturbance line approximately 20 ft. from the house. Mr. Ajello noted the DEP form was incomplete. Mr. Picton questioned why the applicant had not been advised of the missing information prior to the meeting. Ms. Zinick said she would submit a description of the complete list of activities being applied for and would provide the other information requested at the next Meeting. She said she would delete the activities other than the house additions, so that the Commission could act on them at the next meeting.

## **New Applications**

Moore/127 Blackville Road/#IW-08-55/Well:

Ms. Zinick, agent, presented the map, "Proposed Sanitary Disposal System Plan & B-100a Plan," by Arthur H. Howland and Assoc., revised to 10/31/08. She noted the only activity proposed within the regulated area was the drilling of the well, said the land was gently sloping except for the steep slopes near the existing house, and pointed out the locations of the proposed house, driveway, and septic system just outside the regulated area. A site inspection was scheduled for Wednesday, November 19, 2008 at 3:00 p.m. Ms. Zinick noted the house site was staked.

Beckett/23 Loomarwick Road/#IW-08-56/Reconstruct Dwelling, Install Septic System:

Atty. Strub, Mr. Diller, architect, and Mr. Lassard, engineer, represented the applicant. Atty. Strub submitted the mandatory conservation easement form. He noted the current proposal was a different plan than the one the Commission reviewed several years ago, saying it had decreased in scope and attempted to respect and reconcile both the wetlands and zoning setbacks. A variance must still be granted by the ZBA, however. He said the existing structure was only 1.6 feet from the wetlands, but by rotating it, the proposed rebuilt structure would be 26.5 feet away. He noted Mr. Klein, soil scientist, had flagged the wetlands and had prepared a planting plan, which included a stonewall to separate the planting area and to provide a tangible separation from the wetlands. Mr. Picton said this was a good idea because it allowed a 14 ft. wide buffer area. Mrs. Hill asked that both the soil scientist's report and his sketch map be submitted. The map, "Proposed Subsurface Sewage Disposal System," by Civil 1, dated 11/3/08 was reviewed. It was noted the wetlands had been flagged twice and there were two wetlands lines on the map. Mr. Lassard noted the site conditions and activities proposed. He said the property was 8/10 of an acre, the brook flowed south to north through the property, a dwelling similar in size to the existing structure was proposed, but it would be placed farther from the wetlands, a rain garden and an infiltration trench on the north side of the driveway were proposed to handle the driveway runoff, the existing shed would be removed and the area replanted, and he pointed out the limit of disturbance line. He said he had considered putting the septic system where the house is proposed, but said the soils were not suitable. He also noted a new well is proposed. Mr. Diller compared the existing and proposed lot coverage and house size. These figures are provided on the site plan. He stated that the area of the lot not in the wetland and zoning setbacks was extremely small and there was no viable option for rebuilding the house on the existing footprint. Tree cutting was discussed. Mr. Diller said the lot was not heavily wooded and the spruce and hemlocks would remain. Mr. Lassard said only dead trees would be cut in the wetlands and the stumps would be left. Mr. Picton noted that Mr. Ajello should be consulted about any proposed clearing within the regulated area. A site inspection was scheduled for Wednesday, November 19, 2008 at 3:30 p.m.

Washington Partners, LLC./108 New Milford Turnpike/#IW-08-57/9 Lot Affordable Subdivision:

Atty. Strub and Mr. George, engineer, represented the applicant. Mr. George presented the plans, "Pond View Estates at Washington," 10 sheets, by CCA, LLC., revised to 8/28/08 and passed out copies of the project report, also by CCA, LLC., dated 10/23/08. Mr. Picton asked for a brief overview. Mr. George said the application was for a 9 lot affordable housing subdivision with a new road less than 1000 ft. long. He noted the 30+ acre property on the north side of Rt. 202 has an existing curb cut and also abuts Flirtation Avenue. There is a 9.6 acre wetland on the east side. He said the wetlands had been flagged and an environmental impact study had been done. Mr. George said the existing access would be widened and an open bottomed arched culvert, which would be more like a bridge than a culvert, would be installed. He noted there was both grading and filling for the road proposed within the regulated area and stated that the wetlands on the state property at the entrance would be impacted. He described the road as 20 ft. wide with vegetated swales along its side. The catch basins along the road

will collect all runoff from the impervious surfaces and this will be directed to a sediment pond. He pointed out other proposed activities; installation of some driveways and grading, also within the regulated area. Rain gardens for the management of roof runoff were proposed for six of the nine proposed houses. It was noted that the Health Department had approved the application. It was the consensus that the application should be referred to an environmental consultant/engineer because there are significant wetland resources on the site. Mr. Picton recommended either Milone and McBroom or Fuss and O'Neill. Mr. Picton also thought that if an environmental planning consultant was used he could also incorporate planning issues for the subdivision review process. The commissioners authorized Mr. Picton and Mr. Bedini to select a consulting firm before the next meeting. A site inspection was scheduled for Tuesday, November 25, 2008 at 3:00 p.m. Mr. Picton asked that the road and the houses and driveways closest to the wetlands be staked.

MOTION: To hold a Public Hearing on Wednesday, January 14, 2009 at 5:00 p.m. in the Land Use Meeting Room, Bryan Memorial Town Hall to consider Application #IW-08-57 submitted by Washington Partners, LLC. for a 9 lot affordable subdivision at 108 New Milford Turnpike. By Mrs. Hill, seconded by Mr. Bedini, and passed 5-0.

Town of Washington/112 Walker Brook Road/#IW-08-58/Roadway Drainage Improvements: Mr. Szymanski, engineer, presented the map, "Site Development Plan," by Arthur H. Howland and Assoc., dated 9/22/08. He explained there is an existing, ongoing erosion problem along Walker Brook Road and that Mr. Coleman, adjoining property owner, had offered to pay for and maintain the work to stabilize the disturbed areas. A large amount of sediment now flows into Walker Brook. Boulder retaining walls are proposed along the uphill side of the road. They will be constructed of field stone to preserve the character of the road. A field stone lined drainage swale is also proposed along the uphill side of the road. Mr. Ajello said he had received a letter containing stipulations about the project from Mr. Smith of the Highway Dept. A site inspection was scheduled for Wednesday, 11/19/08 at 2:30 p.m.

Sen/116 Shearer Road/#IW-08-59/Addition to Dwelling, Renovations, Septic System, Driveway: The map, "Proposed B-100a Sanitary Disposal System Plan," by Arthur H. Howland and Assoc., dated 10/9/08 was reviewed. Mr. Szymanski, engineer, listed the proposed activities; 1) a garage addition to the existing house, 2) demolition of the barn, 3) construction of a garage/pool house, 4) installation of an inground pool, 5) removal and seeding of the existing driveway, 6) installation of a new driveway, 6) installation of a septic system, and 7) relocation of the spring house. He stated there was existing lawn abutting the wetlands to the north and to the south. He proposed to let these areas grow back and mow them only once a year so they would serve as wetland buffers. Mr. Picton noted that the required grading was well away from the structures closest to the wetlands. Mr. Szymanski said there were two proposed play areas that would also require regrading. A site inspection was scheduled for Wednesday, 11/19/08 at 1:45 p.m.

## **Other Business**

Appeal of Wykeham Rise, LLC. Approval:

Mrs. Federer said she wanted to know how the Commission would deal with this appeal. It was the consensus that this was not yet pending litigation so holding an executive session to discuss it was not necessary. It was noted that on behalf of the Federers, Atty. Hill had appealed the approval back to the Commission based on the applicant's failure to comply with CGS 47-42a and 47-42d. Mrs. Federer said she did not receive notice 65 days prior to the submission of the application as required by state statute. She read the statute, which states that if the holder of the easement is not properly notified, the agency shall reverse the approval. Mr. Picton asked whether it stated the decision "shall" or "may" be reversed. It was noted the statute said, "shall." She also noted that the Town's mandatory conservation easement form had not been included with the application at the time it was submitted. Mr. Ajello said

that the letter from Atty. Hill and a response from Atty. Fisher on behalf of the applicant had been forwarded to Atty. Zizka for review. Mr. Picton said the Commission would wait for advice from its attorney before taking any action. Mrs. Federer said she was asking for a reversal of the decision prior to publication of the legal notice. Mr. Picton again said the Commission would wait to hear from Atty. Zizka and said the notice would be published in the meantime.

### **Enforcement**

Reinhardt-Cremona/Perkins Road/Execution of Approved Restoration Plan: Mr. Ajello noted that last month the report from Mr. Childs had been circulated and it had been decided at that time that a site inspection should be scheduled after the leaves had fallen, and after it had been conducted the Commission would decide whether to release all or part of the bond. A site inspection was scheduled for Tuesday, 11/25/08 at 2:15 p.m. Atty. Kelly represented Mrs. Reinhardt. He said the Commission did not have the right to inspect the property and that it had to release the bond. He noted that Mrs. Reinhardt no longer owned the property, so he did not have the authority to let the Commission on site. He said the consultant's report said the required work was completed, so he asked the Commission to follow the terms of its consent order. He said the bond was supposed to be reduced a year ago and he noted he had sent a letter dated 10/22/08 about this matter. Mr. Ajello noted that most of the work to be inspected could be seen from the Cavallaro property and the commissioners decided they would conduct the inspection as scheduled before deciding whether to release the bond.

### **Other Business**

State Grant for Removal of Invasives:

Mr. Thomson noted that the Commission had been looking for proactive activities and the DEP was offering a 25% matching grant to fight invasives. He said he had submitted an application to remove invasives around the athletic fields at the Primary School. They would be mowed or cut down in June or July and sprayed with a chemical in August. He did not know at this time which chemical would be used. Mrs. J. Hill noted there is a patch of invasives located just upstream by the Legion Hall. She asked if there was a chance that seeds from this upper patch would reinfect the downstream area if these plants weren't removed at the same time. Mr. Thomson did not know, but said he would include the upper patch in the application if it was possible. Mr. Ajello requested a brief written description of how the plant material would be disposed of and about the chemical application. Mr. Thomson noted his application for the state grant was due by 12/8/08 and said the Commission's approval of the application was needed before then. It was the consensus that an application was required for the proposed work because it involves clearcutting and use of chemicals in the regulated area.

### **Enforcement Report**

Andersson/35-45 Gunn Hill Road:

It was noted the Commission is still waiting for the survey map. Mr. Ajello said the Commission would have an opportunity to review the map and the language of the proposed agreement before it is sent to the intervener.

Lodsin/78 Litchfield Turnpike/#IW-07-V12:

The Army Corps of Engineers is scheduled to inspect this site on 11/13/08.

McCullers/Plumb Hill Road:

Mr. Ajello said he had inspected the property and found that the temporary driveway had been removed, the gravel taken off site, and the disturbed area seeded and mulched.

Peloquin/1 New Preston Hill Road:

Mr. Picton asked if at least 50% of the terrace/garden area was permeable. Mr. Ajello said it was.

Brown/127 West Shore Road

Howard/99 West Shore Road:

Mr. Picton asked Mr. Ajello to notify the Commission when court action is scheduled for these two violations.

Liljequist/22 Tinker Hill Road:

Mr. Ajello said he had issued a citation last month and was waiting for an application.

#### **Administrative Business** Revision of the Regulations:

Mr. Bedini said the subcommittee had considered all of the additional revisions that had been recommended and had incorporated eight of them. He thought the Commission should encourage applicants to come in for preliminary reviews early in the application process. He said that other Towns have included a statement in their Regulations to encourage this and that applicants could be charged a small fee so the Commission could send their preliminary plans to the Commission's consultant for review. Mr. Picton thought it made sense for the Commission to have input in the design stage of an application. Mr. Bedini thought that once plans had been fully engineered, applicants were reluctant to make changes, so a review by the Commission before plans were finalized was a good idea. He recommended the addition of Section 7.07 to strongly encourage preliminary reviews and to give the Commission the authority to charge the applicant for the consultant's review of preliminary plans. Mr. Picton asked if preliminary reviews could be made mandatory. Mrs. Hill said they could not. Mr. Ajello said that preliminary reviews would add to the length of meetings. Mr. Picton said they would, but noted they would save the Commission time when reviewing the application later on. Mr. Thomson agreed that preliminary reviews were a good idea. It was noted that the DEP had written to the Commission to say that it had no time or staff to review the proposed revisions to the Inland Wetlands Regulations. The Commission has not yet heard from Atty. Zizka.

#### Land Use Consultant:

Mr. Connor is still gathering information and will meet with the Board of Selectmen on Friday, 11/14/08.

#### Election of Officers:

Mr. Picton officially resigned as Commission chairman.

MOTION: To nominate Mr. Bedini as Chairman. By Mrs. Hill, seconded by Mr. Picton, and passed 5-0.

MOTION: To nominate Mr. Wadeldon as Vice Chairman. By Mr. Thomson and Mr. Bohan, seconded by Mr. Bedini, and passed 5-0.

Mr. Ajello said the Commission would miss Mr. Picton's leadership and advised him to submit his resignation in writing. Mr. Bedini recommended that before the Board of Selectmen makes appointments to the Inland Wetlands Commission, it should 1) require prospective commissioners to attend two meetings and 2) interview them to determine whether they are ready to commit to the required training, site inspections, etc.

It was noted the annual Town-Rotary Club reception for Town volunteers would be held on Friday, 11/21/08 in the Main Hall from 5:00 – 7:00 p.m.

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

Mr. Bedini adjourned the Meeting at 9:54 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill

Land Use Coordinator

**INLAND WETLANDS COMMISSION  
SITE INSPECTION REPORT**

**I. APPLICATION #: IW-08-53**

INSPECTION DATE: 28 October 2008

TIME: 4:36pm

**II. NAME:** Mark & Linda Conlon

**III. PROPERTY ADDRESS:** 6 Valley Road

**IV. REASON FOR APPLICATION:** Reconstruct Dwelling, Additions to Barn and Garage

**V. MEMBERS PRESENT:** Dorothy Hill, Mark Picton, Tony Bedini

STAFF PRESENT: Mike Ajello, WEO

**OTHERS PRESENT:** Mr. Paul Szymanski, PE representing the applicant

**VI. DOCUMENTS:** Proposed B-100a Sanitary Disposal System Plan for Mark and Linda Conlon, dated May 1, 2008, SDS.1; Proposed Sedimentation & Erosion Control Plan for Mark & Linda Conlon, dated May 30, 2008; Property Survey & Partial Topographic Map for Mark and Linda Conlon, dated March 30, 2008.

**V. OBSERVATIONS:** The commission members arrived on the site at 4:36pm and parked on the edge of Valley Road. We were met by Mike Ajello and Mr. Szymanski. Using the maps sited above we proceeded to walk the property in a southerly direction and inspected the existing barn. The existing barn will be rebuilt with a proposed porch added in the westerly direction towards the Shepaug River. The closest corner of the porch will be 18'6" from the river's edge. To the south and attached to the barn is proposed a garage measuring 26.0 by 28.0 feet. This is more than twice the size of the existing shed. Approximately halfway between the existing barn and existing house is a dug well that will be abandoned. The existing house will be a total tear down. A new basement will be built with a new 3 bedroom in place of the old house. The size of the new house is approximately twice the size of the old house. The new house will be 63.6 feet from the river at its closest point. A small, old shed near the river will be removed and discarded. About half of the length of the driveway will be abandoned. Alternatives were discussed briefly and apparently two exist. A reduction in scope, and another possible route for the driveway should be explored.

The site is difficult and constricted. It consists of a 1.37 acre of land wedged between Valley Road and the Shepaug River and there is little flexibility in the placing of the necessary components. The documents are complete with critical distances noted, limits of disturbance, setbacks, and elements identified. The sedimentation and erosion control plans are complete and well detailed. The Commissioners left the site at 4:47pm.

Respectfully submitted,  
Tony Bedini

**INLAND WETLANDS COMMISSION  
SITE INSPECTION REPORT**

**I. APPLICATION #: IW-08-54**

INSPECTION DATE: 28 October 2008

TIME: 5:00 pm

**II. NAME:** Buell

**III. PROPERTY ADDRESS:** 3 Findley Rd. Marble Dale

**IV. REASON FOR APPLICATION:** Addition to House, conversion of deck to living space

**V. MEMBERS PRESENT:** Dorothy Hill, Mark Picton, Tony Bedini

STAFF PRESENT: Mike Ajello, WEO

**OTHERS PRESENT:** Tammy Zinick, Karen Buell

**VI. OBSERVATIONS:** Members noted the level area at the rear of the house where a 25' x 32' addition is proposed; it will be 70' from the East Aspetuck River at its closest point and will be constructed on a slab. The existing small deck (9'9" x 8'1") will be enclosed to enlarge the small (10'4" x 9'11") kitchen; it is 59' from the river. Also on a fairly level area is the existing stone foundation on which the Buells propose to build a deck to hold a hot tub. On the side of the foundation away from the river an above ground pool is proposed. The foundation is only 25' from the river. File materials include a plan for a new septic system to the rear of the proposed addition; this is not included in the application. Members resisted Mrs. Buell's offer of pie and coffee and left the site at about 5:30.

Respectfully submitted,  
Dorothy G. Hill