

February 28, 2007

MEMBERS PRESENT: Mr. Bedini, Mr. LaMuniere, Mr. Picton, Ms. Purnell

MEMBER ABSENT: Mrs. D. Hill

ALTERNATE PRESENT: Mr. Potter

ALTERNATES ABSENT: Ms. Coe, Mr. Thomson

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

ALSO PRESENT: Ms. Alabiso, Mrs. Smith, Mr. Plouride, Mr. Szymanski

Mr. Bedini, acting chairman, called the meeting to order at 7:00 p.m. and seated Members Bedini, LaMuniere, and Picton and Alternate Potter for Mrs. Hill.

MOTION: To add the following subsequent business to the agenda: 1) New Application: Abella/44 Scofield Hill Road/#IW-07-06/3 Lot Subdivision and 2) Other Business: Memo from Conservation Commission re: Town Initiated Open Space Preservation. By Mr. Picton, seconded by Mr. Potter, and passed 4-0.

Consideration of the Minutes

MOTION: To accept the 1/24/07 Regular Meeting minutes as written. By Mr. Potter, seconded by Mr. Picton, and passed 4-0.

MOTION: To accept the 1/30/07 72 Horse Heaven Road site inspection minutes as written. By Mr. Charles, seconded by Mr. Picton, and passed 4-0.

MOTION: To accept the 1/30/07 Steep Rock Assn. site inspection minutes as written. By Mr. Picton, seconded by Mr. Charles, and passed 4-0.

Mr. Potter noted for the record concerning the Steep Rock site inspection minutes, that normally tree stumps are not measured at ground level, so he thought the stumps were actually 6 inches in diameter at most.

Other Business

Report on 1 Green Hill Road Soil Contamination Clean Up: Ms. Alabiso from Groundwater and Environmental Services, Inc. answered questions from the commissioners.

Mr. Picton: Is there a site plan?

Ms. Alabiso: There was no formal survey yet.

Mr. Potter: How close will the excavation be to the river?

Ms. Alabiso: The excavation would be approximately 200 ft. away, however, treated water would be discharged through the catch basin directly to the Shepaug. Before discharging into the Shepaug, the water will be run through a sediment filter and three carbon vessels in series. She thought this was overkill to treat all contaminants found in the initial samples, which included VOC's, petroleum hydrocarbons, metals, and PAH's normally associated with kerosene and waste oils.

Mr. Potter: How deep were the contaminants found?

Ms. Alabiso: They were found 12 ft. below the ground soils and 22 ft. down in the water test. She noted

all the data was draft information at this point.

Mr. Picton: Will the building be taken down first?

Ms. Alabiso: The lifts and floor drains will be removed, but the building will remain. When the excavation is completed, it will be backfilled, concreted, and sealed. The tanks and pump islands will also be removed.

Mr. Picton: Was the groundwater contaminated below 12 ft?

Ms. Alabiso: From 12 to 22 ft. down VOC's were found. She then detailed how the carbon filters would work. The treatment system was designed to remove all of the contaminants. Water samples will be collected between each carbon filter and after the water has run through the complete system and it will not be discharged into the catch basin until the test results have been reviewed. If it is found that all of the contaminants have been removed, the water will be released at the rate of 10 gal/min. Tests will be taken every 24 hours for the first 5 days and then every other day for 2 weeks. She did not expect to encounter any floating gas, but said the catch basin would be monitored for odors and if found, the discharge would be discontinued.

Mr. Bedini: How long would the water be pumped?

Ms. Alabiso: She was not sure of the vertical and horizontal extent of the plume, so she was not sure how long the pumping would continue. She said ORC would be pumped in to help activate the bio remediation.

Ms. Purnell arrived at this point and was seated.

Ms. Alabiso: She stated there would be no contaminants whatsoever when the water was discharged to the catch basin and that it would be drinkable.

Ms. Purnell: What will happen if you find elevated levels of the contaminants?

Ms. Alabiso: She did not expect this would happen, but said if it did, the discharge would cease and more filters or a larger filter would be brought in.

Mr. Picton: He stated he assumed the proposed treatment system could be modified to treat any other contaminants if they were discovered later in the process.

Mr. Ajello: What would happen if pipes, drains, or conduits were encountered during the excavation?

Ms. Alabiso: Initially all soils would be removed and the pipe or drain would have to be taken care of later.

Ms. Purnell: Has the DEP granted the permit?

Ms. Alabiso: The DEP discharge permit is automatic when the application is turned in. The ORC application was submitted to the DEP on 2/1 and usually takes 2 to 3 months to process.

Mr. Ajello: Were the wells in the area tested for base line data?

Ms. Alabiso: She thought this might be a DEP requirement; she was not sure.

Mrs. Hill: She noted someone from the DEP had been to the Health Dept. researching the wells in the immediate area.

Ms. Alabiso: She said ground would be broken inside the building the next day (3/1) and the dewatering system would be delivered next week. She said when the outside work begins the ground and stockpiles would be covered with poly sheeting, but for the most part the excavated material would be loaded directly to trucks. The excavated areas would be filled with a compacted bank run gravel.

Mr. Bedini thanked Ms. Alabiso for attending the meeting to answer the Commission's questions.

Pending Applications

Rising/191 West Shore Road/#IW-06-46/Repair Septic System: Mr. Ajello said he had spoken with the engineer and there would be no additional information submitted and no further work done. It was noted the Commission had raised specific questions, but had received no answers. Ms. Purnell recommended since there was insufficient information submitted, the Commission deny the application without prejudice. It was also noted in this case conservation would be a feasible and prudent alternative.

MOTION: To deny without prejudice Application #IW-06-46 submitted by Mrs. Rising to repair the septic system at 191 West Shore Road because insufficient information was submitted; the applicant had been asked specific questions, which were not addressed. By Mr. Picton, seconded by Ms. Purnell, and passed 5-0.

New Application

Tompkins/39 Tompkins Hill Road/#IW-07-05/Driveway: Mr. Ajello noted this was an after the fact application. Ms. Purnell recused herself because she thought the applicants had been "uncomfortable" with her participation in a previous application. Mr. Ajello said he had originally told the property owners they did not need an application because the map they presented showed an existing wood road 100 ft. from the wetlands for the driveway location. However, Mr. Tompkins had deposited more fill than had been anticipated to build up the driveway, which brought the base of the slopes to within 60 ft. of wetlands. He noted the slopes were seeded and mulched and would be planted with non invasive species. He saw no impact to the wetlands. Mr. Potter thought it would cause far more disturbance if the fill had to be dug out now. Mr. Bedini asked the Commissioners to drive by on their own before the next meeting and tabled further discussion until that time.

Ms. Purnell was reseated.

Enforcement

Plouride/33 East Shore Road/Unauthorized Clear Cutting: Mr. Plouride was present. Mr. Ajello stated no new information had been submitted for the file, although Mr. Ajello had issued an enforcement order that had detailed what the Commission had requested. The 1/16/07 enforcement order was reviewed and it was noted the following had been requested by 2/21/07: 1) a map with all pertinent information, 2) a restoration plan by a qualified expert, 3) an erosion and sedimentation control plan, and 4) clean up of the debris on site. Mr. Ajello noted a show cause hearing had been conducted, but Mr. Plouride had not attended. Mr. Plouride stated the work he had done had been to cut down trees leaning over his driveway and foundation and to clear the brush to reach those trees. He thought he was making improvements to the property and said the debris would have been cleaned up by now if he had not received the cease and desist order. He said he was not clearcutting and some of the trees removed were already dead. Mr. Potter asked if he had cut between the river and the driveway. Mr. Plouride said he had not. Ms. Purnell asked why a restoration plan had not been submitted. Mr. Plouride said he had no problem with planting a few replacement shrubs and trees. Ms. Purnell said restoration of the canopy, soil stabilization, and buffer issues had to be addressed. Mr. Picton agreed. Mr. Plouride asked if he could plant fruit trees. Mr. Ajello said these would not restore the high canopy that had been lost. After a brief discussion it was agreed replacement with deciduous trees would be acceptable. Mr. Picton asked for a written restoration plan, which would include the number, type, size, and location of the trees to be planted. Ms. Purnell asked that Mr. Plouride be provided with native plant information. Ms. Purnell noted the enforcement order would remain in effect until the Commission approved a restoration plan. Mr. Plouride said he understood.

Carter/292 Walker Brook Road/#IW-04-V8/Repair of Retaining Wall: The 2/19/07 report from Mr. Pawlak of Ct. Ecosystems, LLC. was distributed to the commissioners. It will be discussed at the next meeting. Ms. Purnell questioned whether Mr. Pawlak had the proper credentials to address the physical stream flow questions raised by the Commission.

Moore/25 Litchfield Turnpike/Unauthorized Clearcutting, Deposition: Mr. Ajello had not heard from Mr. Moore since the last meeting and Mr. Potter had not discussed the matter with him. Ms. Purnell noted Mr. Moore had previously agreed to the procedure outlined in Mr. Ajello's 11/6/06 enforcement letter. Mr. Ajello thought the Commission should be consistent and require a soil scientist be present to direct the work like it would require for any property owner in Town. Ms. Purnell noted it was important to require a soil scientist because attorneys often question the Commission's expertise, so a certified expert would be needed if this matter should go to court. Mr. Ajello noted the Commission had been focusing on one section that had been filled, but said Mr. Moore had deposited additional fill since he had first been made aware of the violation. The map, "Site Analysis Plan," (portion only) showing the difference between the July 2006 vs the August 1999 flagged wetlands was reviewed. Mr. Ajello pointed out an area of concern between wetlands flags #41-47 in the vicinity of the pig pen as well as other areas of discrepancy. Ms. Purnell noted that the original flagged wetlands were further to the NE than had been shown on the 2006 map by Nutmeg Soil Services. The commissioners discussed whether it was necessary for a soil scientist to stake the areas where the fill is to be removed and to determine to what depth it will be removed. It was the consensus a soil scientist was necessary and that Mr. Moore should post a bond to cover the cost. It was also decided that if Mr. Moore had not agreed in writing to the procedures outlined in Mr. Ajello's letter and had not posted the bond by the next meeting, a notice of violation would be placed on the Town Land Records and a second citation issued. Mr. Moore will be notified by certified mail of this decision.

MOTION: Regarding Moore/25 Litchfield Turnpike: To require that by the March 14, 2007 meeting Mr. Moore 1) post a \$400 bond and 2) sign an agreement to proceed with the restoration process outlined in Mr. Ajello's 11/6/06 letter with the understanding that failure to do by that date will result in 1) the filing of the enforcement letter on the Town Land Records and 2) the issuance of a second citation to Mr. Moore. By Mr. Picton, seconded by Ms. Purnell, and passed 5-0.

Pending Application

Hardy-Gill/211 Baldwin Hill Road/#IW-07-03/Single Family Dwelling:

Mr. Szymanski, engineer, presented the map, "Proposed Plot Plan," by Mr. Szymanski, revised to 2/6/07. He noted that since the last meeting Mr. Temple, soil scientist, had reexamined and had found wetlands in two areas; 1) the vicinity of the footing drain outlet and 2) the heaved pocket down hill of the proposed septic system. Therefore, the septic system had been moved back up the hill where it would be 77 ft. from the wetland pocket. The reserve system would be 63 ft. from the wetlands. Fifty feet had been maintained between the wetlands and the proposed limit of disturbance. Mr. Szymanski had added a note to the map that the limit of disturbance was to be staked in the field and inspected by the WEO prior to the start of construction. It was noted the house location was unchanged, the septic system would encroach 50 ft. into the upland review area, and the regrading necessary for the house would encroach 55 ft. Ms. Purnell asked if feasible and prudent alternatives had been considered. Mr. Szymanski said the house could be located further up the hill, but then a serpentine driveway would be needed to comply with the 15% maximum grade requirement. Ms. Purnell noted almost all of the proposed development was within the regulated area. Mr. Picton asked why the house and driveway could not be moved to the widest non regulated section of the lot. Mr. Szymanski stated the soils were not as good there, the disturbed area would then be increased due to a higher water table, and the septic system had to meet a 10 ft. setback from the boundary line, which would bring it further down the hill, closer to the wetlands pocket. Ms. Purnell noted the Commission was concerned about the long term

effects of the development envelope so close to the watercourses and seeps on both sides of the property. Mr. Potter saw no problem with the proposal as it was an engineered plan, but Ms. Purnell and Mr. Picton noted engineers don't always make their plans from a wetlands point of view. Ms. Purnell asked for the usual written analysis of feasible and prudent alternatives. Mr. Picton asked if the development envelope could be compacted. Alternative locations for the soil stockpiles were discussed. Mr. Szymanski noted if the development was moved to the north, the grading would get steeper and he could not grade over the property line or have a cut 50 ft. downhill of a septic system per the state health code. Mr. LaMunier asked where the trees would be cut. Mr. Szymanski said they would be cut only within the limit of disturbance. Ms. Purnell asked for a note on the map that there would be no landscaping outside the limit of disturbance. Mr. Szymanski agreed to put this on the map. Mr. Potter pointed out the plans had been revised to include all the wetlands on the property and all proposed development was at least 50 ft. from them. He made a motion to approve the application as presented, but there was no second. Mr. Picton thought an alternate plan moving the septic system upslope of the wetlands pocket and altering the driveway route would be possible. He asked that more thought be given to moving the development away from the down slope wetlands. Mr. LaMunier was not sure that modification would result in better protection of the wetlands. Ms. Purnell asked if the septic galleys could be shortened. Mr. Szymanski warned he might have to increase the size of the house to five bedrooms to recoup the cost of any additional septic testing that would be required. Given the nature of the wetlands and constraints on the property, Mr. Ajello pointed out two feasible and prudent alternatives: 1) decreasing the size of the house to three bedrooms and 2) shortening the driveway to enter a front facing garage. Mr. Bedini asked Mr. Szymanski to take a second look at the proposal and explain in writing why it can not be changed, if it, indeed, can't be changed.

New Application

Abella/44 Scofield Hill Road/#IW-07-06/3 Lot Subdivision: Mr. Szymanski presented the map, "Overall Site Development Plan," dated 2/27/07, by Mr. Szymanski. He noted a watercourse flows through the central section of the property and there were seeps in both the center and northeast corner of the property. Two wetlands crossings were proposed for the two proposed interior lots. The first crossing would have a bridge so there would be no direct impact to the wetlands. For the second crossing an oversized concrete box culvert was proposed. He indicated he had considered a more serpentine route, but that would have increased the amount of disturbance within the upland review area. He noted the driveway grade would be 15% in some locations and said he would provide more details for the proposed cuts. The 2004 Stormwater Management Guidelines would be followed and a 1 ft. wide X 1 ft. deep grass lined swale would be installed on the downhill slope of the driveway and within 20 ft. of the modified rip rap outlet. Ms. Purnell asked if a "softer" alternative to the rip rap could be used. Mr. Szymanski said he would specify a non limestone lining be used. He also said he would provide a full construction sequence. He noted he would propose a seepage envelope where there would be excavation in the wetlands. He said this would help to provide a stable base for hydro connectivity. Ms. Purnell questioned whether the proposed open space was appropriate since much of it was wetlands, which were already protected. It was decided to inspect the site before determining whether a public hearing should be held. The site inspection was scheduled for Tuesday, March 13, 2007 at 4:00 p.m.

Enforcement

Caco/16 Flirtation Avenue/Unauthorized Clearing, Grading: Mr. Ajello had not contacted Mrs. Caco.

Collins/323 West Shore Road/Unauthorized Clearcutting, Soil Disturbance: Mr. Ajello noted he had sent a letter to Mr. Collins. Mr. Picton noted there had been clearcutting and operation of equipment in the wetlands, but no citation had been issued as is usually done when there is work in

actual wetlands. Mr. Picton said the reason a citation had not been issued was because the property owner had said he would submit a restoration plan. However, the plan had not been submitted. Mr. Ajello was requested to issue a citation and to send a letter stating the reason for it and to request that the owner let the understory grow back.

Wright/59 Scofield Hill Road/Unauthorized Clearing, Soil Disturbance, Filling: Mr. Ajello said there had been no progress; that Mr. Wright and the Town Road crew had not been working together to resolve the matter, although it was not the right time of year to do the required work. Mr. Picton asked him to remind Mr. Wright the agreed upon work must be completed.

Yourwith/259 New Milford Turnpike/Unauthorized Excavation and Installation of Drain: Mrs. Yourwith discussed with Mr. Ajello the possibility of either installing a rain garden or extending the swale parallel to the stream to use for infiltration. Mr. Ajello had suggested she consult with NCD or some of the local contractors. She will draft a basic plan and hopefully do the work in the spring. Mr. Ajello said she had been willing to shorten the pipe.

Puertas/72 Horse Heaven Road/Unauthorized Clearing: Atty. Fisher had represented Mr. Puertas at the last meeting, but could not be present tonight. Mr. Ajello noted Mr. Puertas was currently under a notice of violation and asked how the Commission would proceed now that it had conducted a site inspection. Mr. Bedini noted the area cleared was not in clear view of the proposed house site. After a discussion it was the consensus of the commissioners to approve the following motion:

MOTION: To instruct Mr. Ajello to issue a citation to Mr. Puertas for the clearing of wetlands at 72 Horse Heaven Road and to inform him by letter to 1) leave the stumps in place, 2) not to widen the cleared area, 3) to leave the low shrubby vegetation in place, and 4) to submit a map showing the extent of the clearing and mitigation. By Mr. Picton, seconded by Mr. LaMuniere, and passed 5-0.

Steep Rock Assn./River Road-"McKennee Field"/Clearing: Mr. Ajello thought clearing around a potential vernal pool might be a more serious violation than the cutting along the streambank. He said he had asked Mrs. Corrigan to determine whether a vernal pool existed, but due to the weather, she had not yet done so. Mr. Potter noted they had cut around the pool, not in it. Mr. Potter recommended the Commission establish a policy regarding cutting on historical lands that have been cleared in the past. He did not think property owners should have to come in for permits for the once a year maintenance of fields. Mr. LaMuniere noted the Commission has always required a permit for mowing within 30 ft of wetlands, but said as part of the approval, the owners were told they may mow once a year. Mrs. Hill noted in this case, Mrs. D. Hill had been concerned that the field was being extended toward the river. Ms. Purnell stated Steep Rock has management plans and so recommended the Commission consult with the Assn. to learn of its plans for this area. Mr. Picton did not think the work done merited a citation because although the cutting had occurred in the streamside buffer, it was 30 ft. from the river. He recommended that Steep Rock be advised about the importance of enhancing streamside buffers. He asked for a management plan for the vernal pool area if it is found to be a vernal pool and possibly the replanting of the cut buffer.

MOTION: To send Steep Rock Assn. a letter on streamside buffer enhancement practices and to advise it that the Commission is investigating the possibility there is a vernal pool on the River Road, "McKennee field" property, and if it is determined this is so, Steep Rock will be required to submit a management plan to the Commission for review. By Mr. Potter, seconded by Ms. Purnell, and passed 5-0.

Reinhardt and Cremona/Perkins Road: Mr. Ajello said he had not received a report from Mr. Childs. Mr. Picton said progress was quickly needed or else another consultant would have to be hired. He requested that the outline and estimate be submitted by the next meeting. Mr. Ajello will contact Mr. Childs.

Feola/84 Carmel Hill Road/Restoration of Vernal Pool: Mr. Ajello said he had sent another letter and a second citation.

DiBenedetto/213 Calhoun Street/Restoration of Understory: Mr. Picton noted this had been discussed at the last meeting and Mr. Ajello had been asked at that time to check for compliance with the permit granted. It was not thought that converting the understory to lawn had been permitted. Ms. Purnell agreed that what now existed on site bore no resemblance to what had been permitted.

Spring Hill Farm, LLC./69 Whittlesey Road/#IW-05-74: Mr. Picton asked Mr. Ajello if he had inspected the site as had been requested by the Commission. Mr. Ajello said he had and noted he had met with the new contractor. Mr. Picton and Ms. Purnell asked him to write reports of his inspections and his findings for the file.

Other Business

Lake Waramaug Task Force Report re: Invasive Weed Eradication Program: Mr. Ajello had received an email dated 2/28/07 from Mr. McGowan explaining that 1) the invasive weeds in question were mainly in Warren and Kent, 2) the Task Force would try other methods of removal such as laying down bottom barriers, hand pulling, and using a hand held suction harvester before the application of an herbicide, 3) the Commission would be kept posted regarding future action.

Revision of the Regulations: There was a brief discussion regarding whether to resume work on this project before Mrs. D. Hill returned. As Ms. Purnell also was not available for the immediate future and Mrs. Hill had the notes of the last meeting, it was decided to resume work after April 8th.

Ct. Bar Assoc. Seminar: The commissioners were reminded this general land use seminar would be held on March 17th. Ms. Purnell said she had signed up and Mr. LaMunier and Mr. Picton said they would also like to attend.

Inland Wetland Commissioner Training: Mr. Ajello noted the Town would soon receive sign up information about the upcoming program. He noted each Commission is entitled to one free participant and urged Mr. Potter to attend as he is the newest Commission member. Mr. Potter said to sign him up and he would attend if possible.

Members/Alternates: Mr. Ajello urged Mr. Picton to contact Ms. Coe to find out if she would continue to serve as an Alternate. She was considered to be a valuable commissioner, but has not been able to attend meetings for several months.

Policies and Procedures: Mr. Picton noted Ms. Purnell has been working to update the Commission's policies and procedures, which when completed, will help the Commission to deal with issues in a consistent manner.

Communications

Mr. Picton reported Mrs. Payne had circulated a document concerning procedures for the evaluation and acceptance of conservation easements. This matter will be discussed at the next meeting.

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

Mr. Bedini adjourned the meeting at 10:00 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill

Land Use Coordinator

