

May 23, 2007

MEMBERS PRESENT: Mrs. Hill, Mr. LaMuniere, Mr. Picton, Ms. Purnell

MEMBER ABSENT: Mr. Bedini

ALTERNATE PRESENT: Mr. Thomson

ALTERNATES ABSENT: Ms. Coe, Mr. Potter

ALSO PRESENT: Mr. Szymanski, Mr. Papsin, Mrs. Johnson, Mr. Neff, Mrs. Yourwith, Mr. Wilson, Mr. DiBenedetto, Ms. Zinick, Mr. Esker, Mr. Fisher, Mr. Sears, Mr. Deacon

PUBLIC HEARING

Abella/44 Scofield Hill Road/#IW-07-06/3 Lot Resubdivision

Mr. Owen reconvened the public hearing at 6:31 p.m. and seated Members Hill, LaMuniere, Picton, and Purnell and Alternate Thomson for Mr. Bedini.

Mr. Szymanski, engineer, noted that the applicant had paid the estimated fee for the review by Land Tech. He then stated the application would be withdrawn due to the discrepancy in the notification the applicant had mailed the adjoining property owners regarding the time of the hearing and because it was at the end of the statutory time limit in which to consider the application. He said he hoped to resubmit in June so that a public hearing could be rescheduled for July.

Mrs. Johnson advised the Commission that her attorney had checked and it was clear that she had water rights, which were not indicated on the resubdivision map. Mr. Szymanski disagreed, saying his surveyor had researched the matter and said the water rights had been lost. Mr. Picton noted this was a legal issue that should be addressed by the attorneys involved. He said if it were determined it was an inland wetlands issue, it would be taken up by the Commission at the July public hearing.

Mr. Ajello noted that one of the reasons for the time limit running out had been bad weather that kept delaying the site inspection. He asked if the Commission would waive the fee when the application was resubmitted. Ms. Purnell noted there had been expenses associated with the public hearing.

Ms. Purnell noted for the record that she had listened to the tape of the 5/9/07 hearing.

MOTION: To close the public hearing to consider Application #IW-07-06 submitted by Mr. and Mrs. Abella for a three lot resubdivision at 44 Scofield Hill Road. By Mrs. D. Hill, seconded by Mr. Picton, and passed 5-0.

Mr. Picton closed the hearing at 6:40 p.m.

This hearing was recorded on tape. The tape is on file in the Land Use Office, Bryan Memorial Town Hall, Washington Depot, Ct.

REGULAR MEETING

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

Consideration of the Minutes

The 5/9/07 Public Hearing - Regular Meeting minutes were accepted as corrected.

Page 1: Add Mr. Anderson under Also Present.

Page 2: End of 4th paragraph down: Change: "sides of it" to: ends of the bridge.

Page 7: End of 11th line: Change: "to determine" to: and determining.

Page 7: 13th line: Change: "impact on" to: impact to.

Page 9: 14th line: Change: "22% to 17%" to: the existing conditions of 22% to 17% proposed.

Page 9: At the beginning of the sentence beginning in the 6th line from bottom of the paragraph: Insert: Regarding the concrete pier before "Mr. Picton...."

Page 9: 2nd line from bottom of paragraph: Add: over the pier after "deck."

Page 9: Last line of paragraph: Change: "dock" to: pier.

Page 13: Under Andersson: Atty. Anderson should be Mr. Anderson.

Page 15: Under Yourwith: Change: "NCR" to NCD.

MOTION: To accept the 5/9/07 Public Hearing - Regular Meeting minutes as corrected. By Mr. Thomson, seconded by Mr. Picton, and passed 5-0.

MOTION: To add subsequent business not already posted on the agenda: New Applications: 1. Sears/43 Cook Street/#IW-07-24/ Streambank Stabilization, 2. Yourwith/259 New Milford Turnpike/#IW-07-25/Drainage Swale and Other Business: 1. Adams/233 West Shore Road/Dock Construction Plan. By Ms. Purnell, seconded by Mr. Picton, and passed 5-0.

Pending Applications

Abella/44 Scofield Hill Road/#IW-07-06/3 Lot Resubdivision: The Commission accepted the withdrawal of the application with the understanding it would be resubmitted.

LeWinter/86 Roxbury Road/#IW-07-12/Construct Barn: Mr. Neff, engineer, noted he would meet soon with the owners to discuss alternate locations for the proposed barn and/or the possibility of adding on to an existing structure in lieu of a new building. He submitted the 5/23/07 letter to the Commission requesting a 65 day extension of time in which to consider the application and said he would submit a revised overall site plan at the next meeting. Ms. Purnell asked that the alternatives analysis be amended, too.

The order of the Agenda was changed to accommodate those present.

New Applications

McCuellers/18 Plumb Hill Road/#IW-07-21/Reconstruct Barn, Temporary Access: Mr. Neff, engineer, presented his map, "Soil Erosion and Sediment Control Plan," dated 5/17/07. He explained that when work was begun to convert the existing barn to a guest house a temporary driveway was cut in. Later it was determined that this access was too close, within 20 feet, of a wetland on the north side and an intermittent watercourse and the wetlands to the south into which it drains. Ms. Purnell asked for a map of the entire property so that alternatives could be considered. Mr. Ajello said this was a temporary construction access, but Mr. Neff noted it might be used in the future to service the building. Mr. Picton asked how far the building and septic system were from the wetlands. Mr. Neff said they were more than 100 ft. away except for part of the reserve system. Mr. Picton asked if there could be a temporary access that did not cross wetlands and Mr. Neff said it might be possible to locate it closer to the dwelling. Mr. Picton said the Commission should consider a citation and fine if wetlands had been impacted without a permit. A site inspection was scheduled for Tuesday, May 29, 2007 at 4:45 p.m.

Pending Application

Fisher/66 Calhoun Street/#IW-07-19/Install Curtain Drain: Mr. Fisher submitted a revised sketch plan dated 5/21/07. He stated that 1) the curtain drain was needed to prevent flooding in the basement,

2) it would discharge 20 ft. from the wetlands, and 3) he had put the runoff from the gutters in the same trench, but at a higher elevation and discharging 50 ft. from the wetlands as the Commission had requested at the last meeting. It was noted there was ongoing construction work on the existing garage and Mr. Picton asked how far it was from the wetlands. Mr. Fisher said it was more than 100 ft. away. Mr. Picton noted the land was flat and grassed between the garage and the wetlands so this construction was not a wetlands issue. Mr. Fisher noted the proposed outlet would be grassed and Ms. Purnell recommended it be looked at over time to see if any armoring was necessary.

MOTION: To approve Application #IW-07-19 submitted by Mr. Fisher to install a curtain drain at 66 Calhoun Street per the revised and initialed drawings submitted at the 5/23/07 meeting with the condition that the owner adaptively manage the outlet and if he finds there is scouring, he will apply for a permit to rip rap the outlet. By Ms. Purnell, seconded by Mr. Picton, and passed 5-0.

New Application

Sears/43 Cook Street/#IW-07-24/Streambank Stabilization: Mr. Neff submitted his map, "Brook Bank Stabilization Plan," dated 4/23/07 and photos of the erosion along the banks of Canoe Brook adjacent to the existing garage. He proposed to install a precast concrete wall along the streambank. Mr. Picton asked why natural rock could not be used instead. Mr. Neff said the rock that had been on the banks had washed downstream. Mr. Picton noted that the rocks used had been too small. Mr. LaMuniere noted that whatever work was done on this property would have downstream impacts. Mr. Neff noted the banks below looked stable. He said the advantage of using the blocks was that they would be installed more quickly than rocks that would take time to pack. Ms. Purnell stated this type of erosion could result in cumulative impacts and said it would be in the Commission's best interests to hire Mr. MacBroom to first address upstream issues. Mr. Thomson asked if the plans were approved as submitted, would Mr. Neff supervise the installation. Mr. Neff said he could, although it was not now noted on the plan. Mr. Thomson and Mr. Picton thought he should supervise the work to ensure that the approved plan was followed exactly. Mr. Picton noted, too, that the Commission has experienced problems when vertical concrete walls were installed rather than a natural streambank. A site inspection was scheduled on Tuesday, May 29, 2007 at 5:30 p.m.

Pending Application

Peloquin/15 East Shore Road/#IW-07-20/Construct Wall, Stain Deck: Mr. Spelman, agent, proposed a block wall faced with stucco with a picket fence in front. He said he did not have a site plan, but wrote on the rough sketch of the site that the proposed wall/fence would be 23.5 ft. long, 3.5 feet high, gradually sloping down to tie in with the existing guard rail, and 16 to 18 inches deep. Behind this wall, he said, was the river with its 10 ft. retaining wall, which was in good condition. Mr. Picton had inspected the wall and had found very little undermining. Ms. Purnell noted since the river was already walled it did not have much connection with the riparian area. Mr. Picton asked for specs for the foundation of the wall. Mr. Spelman said the wall would be about 1 ft. from the top of the retaining wall. Mr. Picton said there was not enough information to consider the proposed concrete wall and again asked for a drawing that showed the exact location of the existing and proposed walls, the depth of excavation, etc. Mr. Spelman said then that he would install only a stockade fence and Mr. Picton asked that he amend the application. Ms. Purnell noted that was an alternative with less impact and asked if plants would have to be removed to install it. Mr. Spelman said, no, because he would use the existing fence holes. He wrote on one of the photos submitted that he proposed a stockade fence, 23.5 ft. long and 3.5 ft. high and that there would be no soil disturbance and dated and initialed it. Ms. Purnell asked if the work would be done on his property, noting the right of way issue could not be resolved because a map had not been submitted. Mrs. D. Hill reviewed the application and noted the installation of new doors had not been discussed. Mr. Ajello noted this work and staining the deck could be done if a tarp was put down first. Mr. Picton and Ms. Purnell objected that such an incomplete

application had been brought before the Commission.

MOTION: To approve Application #IW-07-20 submitted by Mr. Peloquin to construct a wall, stain the deck, and install doors at 15 East Shore Road with the following conditions: 1. approval is for the replacement of the existing fence with a new fence 3 ft. tall and 23.5 ft. long per the drawing dated 5/23/07, 2. no other work on the wall or in the yard is approved, and 3. the EO shall supervise any other maintenance and repair work on the building as long as it does not impact the stream. By Mr. Picton, seconded by Mrs. D. Hill, and passed 5-0.

New Application

Clark/6 Romford Road/#IW-07-22/Remove Culvert, Replace Second Culvert: Mr. Deacon, contractor, represented Mr. Clark. The site plan, "Proposed Box Culvert," by G.D.D., and dated 5/16/07 was reviewed and photos of the existing erosion were circulated. Mr. Deacon explained the existing culverts were seriously undersized so that flooding problems often occurred. He proposed to remove the existing 15 and 36 inch pipes and replace them with a 3 ft. by 5 ft. square box culvert. Calculations showed this culvert would accommodate 20% more flow than two 36 inch pipes. Ms. Purnell asked if the culvert could be sunk below grade so there could be natural sediment on the bottom. Mr. Deacon said he wanted it to be 99% open. Ms. Purnell asked if he would consider sinking a 4 ft. by 6 ft. one foot, but Mr. Deacon thought that would increase the cost by a third. When Mr. Picton explained that the Commission wanted to maintain the natural stream bottom, Mr. Deacon offered to sink it a few inches, but again stated he did not want to diminish its capacity. Mr. Picton asked if wing walls would be needed. Mr. Deacon said, no. A site inspection was scheduled for Tuesday, May 29, 2007 at 5:15 p.m.

New Application

Town of Washington/16 Titus Road/#IW-07-23/Clean Up, Install Walking Path: Mr. Sears, First Selectman, presented the maps, "Existing Conditions Map," by Mr. Natale, dated 2/1/07 and "Preliminary Concept," by Mr. Sabin, landscape architect, revised to 5/23/07 and stated the activities proposed were the restoration of the property and the installation of a walking path along the river. He pointed out the temporary parking area and the access to the river for fire trucks and explained that Mr. Sabin was working on plans to restore the land to meadow and to make a river loop path off the existing greenway trail. Mr. Sears said an engineer was working on a plan that would show regrading to make the meadow with a 3% slope and said no material would be brought in except for top dressing. The existing stockpiled material might have to be trucked off site, but he did not yet know for sure because it has not been sampled. He proposed the property be used for recreational purposes by the public with the hard packed path for walking along the river and the fire truck access for launching canoes. Details such as installation of turf pavers for the river access and the cross section of the berm and walking path were reviewed. Ms. Purnell asked if the plans included tree removal. Mr. Sears said invasives would be removed and more trees planted. Ms. Purnell asked if the plans included consideration of both the floodway and the stream channel encroachment line. She noted the floodway differed from the flood plain shown on the FEMA maps. Mr. Sears will ask Mr. Szymanski, engineer, to investigate. Mr. Picton asked that the floodway information be added to the map as soon as possible. He noted if changes to the berm that would change the flood characteristics were proposed, additional information would be required. He also asked for information on the preservation of the natural riparian buffer. He said the Commission looks for a variety of heavier vegetation, not lawn, along streams. Ms. Purnell pointed out that Mr. Picton, who owns adjoining property, and Mr. LaMunier, who serves on a committee that helped work on this plan, might have conflicts of interest. Mrs. D. Hill did not think this would apply in this case since it is public property that belongs to everyone in Town. A site inspection was scheduled for Wednesday, May 30, 2007 at 4:00 p.m.

MOTION: To schedule a public hearing to consider Application #IW-07-23 submitted by the Town of Washington to clean up and install a walking path at 16 Titus Road on June 13, 2007 at 6:00 p.m. in the Land Use Meeting Room, Bryan Memorial Town Hall. By Mrs. D. Hill, seconded by Ms. Purnell, and passed 5-0.

Yourwith/259 New Milford Turnpike/#IW-07-25/Drainage Swale: Mrs. Yourwith noted her basement floods so it must be pumped out and that was the reason she needed the drainage swale. Ms. Purnell pointed out this had been a violation because the drainage had been ditched to the stream without a permit. Mr. Ajello explained that in addition to the swale Mrs. Yourwith proposed to reduce the size of the parking area and to plant a rain garden/buffer area. He said this would renovate the water before it reached the river and that armoring would be needed only for the last few feet. Mrs. Yourwith showed on the sketch plan the area along the East Aspetuck where she would create the buffer. Mr. Ajello read the information on the application form and Mrs. Yourwith reviewed her sequence of construction entitled, "Drainage Swale" and the proposed route for the swale. Mr. Ajello noted there would be a pipe installed under the berm that would separate the swale from the lawn and that the buffer area would be 14.5 feet wide. Ms. Purnell reviewed the list of possible ground covers and advised the applicant not to plant crown vetch because it is invasive.

The commissioners will inspect the site individually before the next meeting.

Enforcement

Rubler/240 Nettleton Hollow Road/Clearing and Driveway Washout: Mr. Neff, engineer, and Mr. Esker, contractor, were present. Mr. Neff said the \$10,000 bond would be delivered on Tuesday and that Mr. Rubler had paid the citation. Mr. Picton asked if Mr. Neff was working on a plan to stabilize the steep slopes. Mr. Neff presented photos of the site and said a surveyor had been back out there and had determined the slopes were 1 in 2. He said grass was growing on the hillsides and he thought they were fairly stable. The cross sections of the proposed retaining wall were reviewed. Mr. Neff said the grades would not change for the wall and that the area below the wall was stable. Mr. Picton noted it would be stable as long as water was not directed over it and Mr. Neff responded that the retaining wall would direct the runoff away. Mr. Neff asked if the Commission wanted an application for the rest of the proposed work. It was the consensus that although the activities would be far from any wetlands, previous work had adversely impacted them and so an application would be required. Mr. Picton noted his concern about the extensive reworking of the landscape at the top of steep slopes, the hardening of surfaces, and the resulting runoff towards wetlands. Mr. Ajello noted he was concerned with the slope below the driveway and how to stabilize it. Mr. Esker said it would be planted. Mr. Esker said plans for the proposed pool, tennis court, retaining walls, etc. would be finalized soon. Mr. Picton asked if the peak runoff from the site would increase. Mr. Neff said he would include an under-ground recharge system to handle the roof drains. He also noted he was investigating ways to dissipate the runoff. When Mr. Esker noted that the cuts and fills required for the tennis court would affect the drainage, Mr. Picton advised him to look for ways to infiltrate and retain the water. Mr. LaMunier advised the applicant to submit a detailed construction sequence for each project. Mr. Picton encouraged the applicant to apply for one comprehensive plan with phases rather than applying for each activity separately.

Carter/292 Walker Brook Road/#IW-04-V8/Repair of Retaining Wall: There was no new information.

Andersson/35-45 Gunn Hill Road/Unauthorized Trenching, Clearing in Wetlands: Mr. Picton asked if the Commission would issue a citation as it was clear that Mr. Andersson had worked without a permit in wetlands and said that none of the work had been related to agriculture. Mr. LaMunier said the work had a major impact on the wetlands. Ms. Purnell, however, thought that some of the work

might have been agricultural and suggested the Commission first differentiate between the agricultural and non agricultural work done. Mr. Thomson noted the patio constructed on the pond was not agricultural. Mr. LaMuniere and Ms. Purnell thought the Commission should be consistent and if non agricultural work was done in or impacted wetlands, a citation should be issued. It was the consensus to issue the citation. The commissioners considered whether there should be an interim order to partially restore the wetlands. Mr. LaMuniere noted wetlands may be cultivated, but not drained for agricultural purposes. It was noted that it was up to Mr. Andersson to apply for an agricultural exemption. The Commission will wait for comments from Mr. Hayden before issuing an order to restore. Ms. Purnell noted Mr. Andersson had been given until June 30th to submit a plan for the property.

Brown/127 West Shore Road/Unauthorized Work Along Shoreline: Both Mr. Ajello and Mr. Wilson, engineer, submitted photos of the work done. Mr. Picton noted that 30 feet had been approved, but that the photos showed the entire length of the shoreline had been worked. The map, "Site Plan," by Mr. Wilson, revised to 5/10/06 showing what the Commission had approved was reviewed. It was noted the following had been approved: rebuilding of steps, installing two dock attachments, and repairing of 30 ft. section of wall. Mr. Wilson stated he had not monitored the work and there had been no filling out into the lake. It was the consensus a citation, enforcement order, and restoration order would be issued. Mr. LaMuniere, Mr. Picton, and Ms. Purnell thought the unauthorized work should be removed. Mr. Picton asked Mrs. J. Hill and Mr. Ajello to investigate what procedure must be followed to increase the fine schedule. Mr. Picton felt that serious violations such as this one merit larger fines, but this was not possible under the current ordinance. Mr. Ajello was asked to compare the approved plan and motion for #IW-06-25 with the work actually done. Mr. Picton stated that the work approved under Permit # IW-07-02 for the same property should not be done until this matter is resolved. Mr. Picton asked Mr. Ajello to label all the photos submitted.

Other Business

Adams/233 West Shore Road/#IW-07-10/Remodel Dock: Ms. Zinick, agent, presented plans and a cross section of the proposed dock. She stated code compliant pressure treated wood would be used to cover the existing concrete dock and asked the Commission which type of lumber it preferred. She read the notes on the plans regarding the differences between the various types of lumber. The construction plans were briefly discussed. Mr. Picton thought that since the existing dock was concrete not much pressure treated lumber would be needed, but Mr. Ajello said the entire dock would be covered. Ms. Zinick stated that the dock was pre existing and that the materials used would comply with Section 6.6.10 of the Zoning Regulations. Mr. Picton noted the concrete dock was pre existing, not the proposed pressure treated wood covered dock. Mrs. D. Hill noted the pressure treated wood would be sitting on the concrete dock and not on the water. Ms. Zinick added that the wood would be pre stained on the asphalt driveway. Mr. Picton suggested that due to its large size the dock be patched and flagstone put down or that cedar be used. He asked if the Zoning Commission would routinely permit an 8' by 62' dock with a 20' by 16' landing at the end. Mr. Ajello said it would not; the existing dock was pre existing. Mr. Picton asked the applicant to consider redrawing the plans to avoid the use of pressure treated wood or to significantly reduce the amount to be used.

DiBenedetto/212-214 Calhoun Street/Restoration of Understory: It was noted that the draft report by Mr. Jontos dated 5/15/2007 had been emailed to the commissioners. Ms. Purnell was surprised the report was not more detailed and did not include more consideration of wetlands characteristics. Mr. Ajello said this was the initial review only and he expected a long term plan would be developed for the eradication and management of invasives as this had been discussed at length on site. Mr. Picton noted the Commission had requested a professional monitoring/management plan for the control of invasives over time, a review of Mr. DiBenedetto's compliance with that plan, and estimates of the consultant's fee and of the cost to restore the property. He asked that questions, comments, and points

of clarification from the commissioners be submitted as soon as possible so that Mr. Jontos could address them in his final report. Mr. DiBenedetto said the on site meeting with Mr. Jontos had gone well, but said for the record he said he would not agree to any punitive measures and he thought the site inspection minutes were inaccurate. He said the work done on his property had been positive and he would invest more to rid the area of invasives without damaging the environment. He again stated he was at the meeting to cooperate, not to be punished. Mr. Picton said the plan to be drafted by Mr. Jontos would not be punitive, but would be a productive plan to restore the wetlands. Mr. DiBenedetto submitted information on carbon emissions from dead trees. Mr. Ajello noted the citation had been paid. Mr. LaMuniere noted that it was evident from the last paragraph of the Jontos report that information was still missing and said he hoped it would be submitted by the next meeting.

Moore/25 Litchfield Turnpike/Unauthorized Filling, Clear Cutting: Mr. Ajello reported there had been progress as detailed in his 5/23/07 report.

Reinhardt/Perkins Road: Mr. Ajello reported that Mr. Childs had planted the trees and would tag them. There is still a large amount of wood on the ground and there is contingency money to remove it if needed.

Spring Hill Farm. LLC./69 Whittlesey Road: The owner has agreed to remove the phragmites and leave the cat tails, but it was not known whether it was actually possible to accomplish this.

Steep Rock Assn/River Road/McKennee Field: It was noted it had been several months, but Mrs. Corrigan still had not inspected the wet area to determine whether it was a vernal pool. Mr. Thomson and Ms. Purnell will conduct an inspection and report back at the next meeting.

Plourde/33 East Shore Road/Unauthorized Clear Cutting: It was noted the violation had been filed on the Land Records.

Fowler/138 Nichols Hill Road/#IW-05-58/Remediation Per Order: Mr. Ajello noted he had not sent the letter as he had been directed to at the last meeting because Atty. Kelly had come in for a Start Card. It was noted the approval requires the ditch to be filled in. Atty. Kelly informed Mr. Ajello that he will contact the Selectmen's Office about the drainage problems on this property.

Bransfield/21 Walker Brook Road: Ms. Purnell noted Mr. Bransfield is under an enforcement order issued by the state for two stone dams he constructed in the brook. Mr. Ajello was asked to compare what had been permitted in past applications to what now exists on the property.

Other Business

Revision of the By-Laws: There was a brief discussion regarding whether to delete the term limit for officers or to allow the Commission to vote for an extension beyond the normal three year limit. Ms. Purnell was the one commissioner against the elimination of the section as she said the Commission has had problems in the past "getting rid" of a poor chairman and she thought the elimination addressed only the current problem rather than considering all potential problems.

MOTION: To approve the revision of the Inland Wetlands Commission by-laws to delete Section 3 regarding term limits. By Mr. LaMuniere, seconded by Mrs. D. Hill, and passed 4-1. Ms. Purnell voted no because she favored an amendment that would permit the Commission to extend an officer's term beyond the 3 year limit rather than deleting the limit entirely.

Communications

It was noted the Verizon cell tower hearing would be held on June 21, 2007. Mr. Picton asked if there were any wetlands issues. Mr. Ajello said there were none.

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

Mr. Picton adjourned the meeting at 9:45 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill, Land Use Coordinator