

October 24, 2007

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

MEMBER ABSENT: Mr. Thomson

ALTERNATE ABSENT: Mr. Potter

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

ALSO PRESENT: Mr. Bohan, Mr. Sabin, Mr. Szymanski, Mr. Neff, Mr. Underwood, Mr. Johnson, Atty. Fisher, Mr. Lecher, Ms. Zinick

SHOW CAUSE HEARING

Andersson/35-45 Gunn Hill Road/Unauthorized Clearing, Trenching

Mr. Picton called the show cause hearing to order at 7:02 p.m. and seated Members Bedini, Hill, LaMuniere, and Picton. He noted there had been a technical deficiency in noticing the results of the previous hearing and, therefore, this would be the same hearing held again on the same matter. Mr. Ajello stated that all of the comments made at the last hearing as well as the hearing tape and minutes would be incorporated into the record of this new hearing. Atty. Fisher asked that all of the materials regarding this matter submitted to date also be incorporated into the record.

Mr. Ajello noted that when he reissued the enforcement order he had changed the wording to the language agreed upon at the last meeting.

Atty. Fisher again stated for the record that he believed the Commission was exceeding its authority granted both by state statute and its own Regulations by referring this matter to a consultant and requiring the property owner to pay for it. He said the request for a management plan for the property also was not under the Commission's authority. He said his client would appeal if the enforcement order continued to go beyond what the statutes and Regulations allow. He asked for an opportunity for Land Tech to review Mr. Sabin's mitigation proposal rather than to have Land Tech develop its own plan. He thought the referral to Land Tech was "overkill" and again said his client would not pay for it.

It was noted the purpose of the hearing was only to give the property owner the opportunity to show cause why the enforcement order should not remain in effect and that any other discussion would be held later during the Regular Meeting.

Mr. LaMuniere noted that the Commission had not asked for a management plan for the entire farm, but for a plan to manage the wetlands and watercourses on the property and said the Commission was concerned about the activities, which had occurred in the upland review area.

MOTION: To close the show cause hearing to consider the enforcement order reissued to Mr. Andersson on 10/22/07 for unauthorized activities at 35-45 Gunn Hill Road. By Mr. Bedini, seconded by Mrs. Hill, and passed 4-0.

Mr. Picton closed the show cause hearing at 7:12 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 7:13 p.m. and seated Members Bedini, Hill, LaMuniere, and Picton.

MOTION: To add the following subsequent business to the agenda: New Application: Hackney-Holiman/125 West Shore Road/#IW-07-60/Reconstruct Deck and Studio. By Mr. Picton, seconded by Mr. Bedini, passed 4-0.

Consideration of the Minutes

The 10/10/07 Regular Meeting minutes were accepted as corrected.

P. 1 and throughout: The correct spelling is Mr. Tittman.

P. 3: Last sentence in first full paragraph: Change to: "...advise it on what would be appropriate for the restoration of this area."

P. 4: Motion to include subsequent business should specifically cite the following items: New Applications: D. Adams/233 West Shore Road/#IW-07-55/Relocate Pool, Install Fence and Hedge, Lengthen Stone Wall, etc., E. Washington Club, Inc./8 Golf Course Road/#IW-07-56/Dredge Pond, Other Business: C. Discussion Regarding Whether to Amend By-Laws Re: Quorum, and Communications: A. Notification from Kent Re: Proposed Activity Within 500 ft. of Town Line.

P. 5: Under Renick: Line 4: Change "shorn" to "shored."

P. 7: In the motion: Line 7: Change "curb" to "curve."

In the motion: Line 9: Delete the first "first."

Under Carron: Line 7 from bottom: Change to: "...removed and dewatered and 600 c. yds. spread...."

Under Carron: Line 5 from bottom: Change to: "...noted the rest of the material would be taken...."

P. 11: Add just above motion: Mr. LaMuniere suggested that the portion of the field that was wetlands or wet meadow should be left as is and the other parts of the field used for hay production. Atty. Fisher said the possibility could be considered as part of a mitigation plan.

P. 15: Under Cornelio: Line 3: Change: "to the lake" to "near the lake."

P. 16: Last phrase under By-Laws: Delete: the last phrase, "...noting that ... political goals."

Under Revision of Fine Schedule: Mrs. Hill asked that the same terminology is in the Ordinance be used. Mrs. J. Hill will check the ordinance.

MOTION: To accept the 10/10/07 show cause hearing -Regular Meeting minutes as corrected. By Mr. Bedini, seconded by Mrs. Hill, and passed 4-0.

MOTION: To accept the 10/16/07 Barnet site inspection minutes as written. By Mrs. Hill, seconded by Mr. Bedini, and passed 3-0-1. Mr. Picton abstained because he had not attended.

MOTION: To accept the 10/16/07 Carron site inspection minutes as written. By Mr. LaMuniere, seconded by Mr. Bedini, and passed 3-0-1. Mr. Picton abstained because he had not attended.

The 10/16/07 Fisher site inspection minutes were accepted as corrected. In the second line in the second paragraph, change "bride" to "bridge."

MOTION: To accept the 10/16/07 Fisher site inspection minutes as corrected. By Mr. Bedini, seconded by Mr. LaMuniere, and passed 3-0-1. Mr. Picton abstained because he had not attended.

MOTION: To accept the 10/16/07 Adams site inspection minutes as written. By Mr. LaMuniere, seconded by Mr. Bedini, and passed 3-0-1. Mr. Picton abstained because he had not attended.

Pending Applications

Stiteler/262 West Shore Road/#IW-07-43/Boathouse: This application was withdrawn.

Jackson/55 Old North Road/#IW-07-50/Single Family Dwelling, Driveway: Mr. Neff, engineer, said Mrs. Jackson had agreed to a smaller footprint for the house, deck, and greenhouse and to move the house farther to the south to keep it farther from the wetlands and from the steep slope on the north side and to reduce the area of disturbance. The reserve septic location was revised and the driveway also moved to a flatter area farther from the north slope. The map, "Proposed Site Development Plan," by Mr. Neff, dated 8/10/07 was compared to the 10/22/07 revision. Mr. Picton asked if there were any drainage issues. Mr. Neff stated that a modified rip rap channel was proposed along the entire upper side of the driveway and would empty into a culvert. Mr. Picton responded that the Commission usually tries to disperse runoff rather than direct it all to one point. Mr. Neff did not think this would be a problem because the swale would be stabilized and the drainage area was small in size; only a fraction of an acre. Mr. Neff noted the erosion control plan included a construction sequence. Phasing of the project to limit the size of the disturbed area at any one time was discussed and agreed upon.

MOTION: To approve Application #IW-07-50 submitted by Mrs. Jackson to construct a house and driveway at 55 Old North Road with the following condition: that the first half of the driveway up to the intermittent stream be graded, graveled, and stabilized and the first half of the swale on the upper side of the driveway constructed before work on the second half of the driveway begins, and work on both phases of the driveway construction be completed and all drainage measures fully installed before work on the house construction phase starts. By Mr. Picton, seconded by Mr. Bedini, and passed 4-0.

Carron/55 Gunn Hill Road/#IW-07-53/Dredge Pond: Mr. Picton recused himself. Mr. Sabin, landscape architect, noted he had submitted a map revised to 10/15/07 at the site inspection and he briefly reviewed the proposal and landscaping plan for those who had not attended. The stockpile/dewatering area was noted. Mrs. Hill noted he had agreed to leave a snag in place to the east of the pond and Mr. Sabin added this to the site plan and dated the map 10/24/07. Mr. Sabin detailed the planting of emergents at the pond's edge, noted the pond would have a 3:1 slope, and said there would be a 6 ft. buffer between the pond and the lawn on the north side of the pond.

MOTION: To approve Application #IW-07-53 submitted by Mr. and Mrs. Carron to dredge the pond at 58 Gunn Hill Road per the plans by Mr. Sabin revised to 10/24/07, including the handwritten notations made during the site inspection. By Mr. LaMunier, seconded by Mrs. Hill, and passed 3-0. Mr. Picton had recused himself.

Mr. Picton was reseated at 7:47 p.m.

Fisher/66 Calhoun Street/#IW-07-54/Landscaping and Planting: Mr. Sabin, landscape architect, presented his plan, "Proposed Wetland Garden and Pond Enhancement," dated 10/2/07. He noted that at the site inspection there had been evidence of erosion near the existing dam release structure, that Mr. LaMunier had recommended that the soil in this area be compacted, and said he would do so. Mr. Picton noted that he had inspected the site on his own. There was a lengthy discussion regarding whether the proposed 18" - 24" deep trench would affect the water table. Mr. Sabin offered to make it a maximum of 18" deep. Mr. Picton thought that even so, a 60 ft. channel through the middle of the wetlands would alter the function of the wet meadow. He suggested that a path of stepping stones would accomplish the goal without impacting the wetlands. Mr. Sabin said that based on the large size of the watershed, the affect of the channel would be minimal. He proposed to naturalize the channel by adding native stone, but Mr. Picton thought the channel should not be dug and that the stones should be placed on the surface. Mr. Picton said that the practice of placing ditches in wetlands was difficult to control. Also proposed was dredging 20 to 30 cubic yards of material from the pond and planting around the edge of the pond. The Commission asked for revised plans that showed no excavation and no alteration of the grade in the wetlands and a natural slab at grade instead of the proposed bridge.

Adams/233 West Shore Road/#IW-07-55/Extend Wall, Plant Hedge, Install Fence: Ms. Zinick,

agent, circulated an old aerial photo, which showed there previously was a stonewall in the location now proposed. The map, "Site Plan," by Mr. Cheney (no signature or seal,) revised to October 2007 was reviewed. It was noted the proposed stonewall would be 2' -2.5' above the existing beach and 8"-10" above the existing grade and that filling on the upper side would be required. Mr. Picton observed there were remains of an old stonewall to the west of the existing birch tree, but to the east there was a natural slope so that filling would be required to accomplish the profile. Mr. LaMunier said he had no problem with the proposed hedge and fence, but that the stonewall was contrary to the position the Commission had taken on other applications and could potentially impact how the beach functions. He said it would not serve to protect the shoreline and had no other purpose. Ms. Zinick said the owner wanted to restore the historic residential look of the property. Mr. Picton noted that the previous wall may have prevented the shore from working in the most ecological and functional way. Ms. Zinick pointed out that the Commission had permitted the adjoining property owners to rebuild their shoreline wall. Mr. Ajello said this had been permitted 2 or 3 years ago, that the wall had only been repaired, and that not much fill had been needed. Ms. Zinick said the rebuilding of the wall would not disturb the lake, but asked that this matter be tabled to the next meeting so that she could find out how much fill would be required. Mr. Picton asked that the location of the large birch tree be placed on the map and noted trees would live longer if the grade wasn't altered and fill placed on top of their roots. He said the Commission permits the maintenance of stonewalls if built to the same height and length and in the same location as the existing walls, but that in this case the wall was not existing. It was the consensus that a wall should not be built on the slope down to the shoreline where there were no remnants of the old wall and that specifics for the repair of the wall were needed to complete the application. Mr. Picton asked the applicant to consider a shoreline garden as an alternate enhancement for the shore.

Washington Club, Inc./8 Golf Course Road/#IW-07-56/Dredge Pond: Mr. Szymanski, engineer, and Mr. Underwood, Club representative, presented the map, "Pond Dredging Plan," by Arthur Howland and Assoc., dated 8/13/07. Mr. Szymanski proposed to dredge the irrigation pond by the 4th hole and to deposit the 2300 cu. yards of excavated material in a depression large enough to hold 3000 cu. yards. elsewhere on the property. Doing so would ensure that that the spoils would not erode. He briefly reviewed the proposed construction sequence. The pond would not be enlarged and would be dug to a depth of 8 ft. The work would be done either in the fall or winter, would be done during dry weather, and would take less than a week. Mr. Szymanski noted the construction sequence included the following requirements: that he inspect after the deposition of the spoils to determine whether top dressing was necessary and that he report to the Commission after the work was completed and after the first rainfall. Mr. Ajello asked if the anti tracking section would be left as a hardened cart path. Mr. Underwood said it would. Mr. Picton asked if the Club had considered installing a sediment trap at the pond entrance so that it could be cleaned out more easily in the future. Mr. Szymanski responded that yearly maintenance would cause more disturbance than dredging the pond every 10 years. Mr. Picton noted that only clear water should be pumped from the pond. A site inspection was scheduled for Wednesday, October 31, 2007 at 4:00 p.m.

New Applications

Oberndorf/151 West Shore Road/#IW-07-57/Demolish and Rebuild House

Mr. Neff, engineer, and Mr. Johnson, contractor, discussed the map, "Septic System Repair Plan," by Mr. Neff, dated 10/8/07. Mrs. D. Hill noted the map indicated there would be an addition to the dwelling in addition to its reconstruction. Mr. Picton noted the site plan was not clear about what was to be demolished, what was to be rebuilt, and what would be added. Mr. Ajello noted several concerns: 1) Would the concrete pad in the northeast corner of the property be removed? 2) The catch basins in the lawn and the road were not shown on the map. 3) A written job management plan was needed to due the constraints on site. Mr. Picton asked if there were wetlands on the property. Mr. Ajello said there

were not, but that there were wetlands concerns due to the location of the catch basins and the steepness of the slope. Mr. Johnson noted they also proposed to replace an existing retaining wall with a poured concrete wall. Mr. Neff spoke briefly about regrading an elevated section behind the house and Mr. Picton asked that all grading lines be shown on the site plan. A site inspection was scheduled for Wednesday, October 31, 2007 at 4:30 p.m.

Lecher/47 West Shore Road/#IW-07-59/Remove Pier, Cap Buttress: Mr. Lecher explained that although he had already been issued a permit to cap the existing 30 ft. X 9 ft. concrete dock, he now proposed to remove it and to apply for a floating dock at a later date. He proposed to cap only the buttress, which he would use to attach the future dock to the shore. Photos of the existing structure were circulated. Mr. Lecher noted a narrower floating dock would reach further into deeper water in the lake so that boats would not churn up the bottom so much. His sketch plan, "Pier Removal and Resurfacing Plan," dated 10/21/07 was reviewed. He explained that the concrete would be chipped into pieces, loaded into a truck, and hauled off site. It was noted this was a new application and could not be acted on this evening.

Lecher/47 West Shore Road/Request to Amend Permit #IW-07-42/ Replace Wood Stairs with Stone Stairs: Mr. Lecher noted that there is an existing concrete slab under the stairs so it would not increase the amount of impervious surface to install stone stairs instead of the wooden stairs previously approved.

MOTION: To approve the request by Mr. Lecher to revise Permit #IW-07-42 to replace the wooden stairs with stone stairs at 47 West Shore Road with the condition that they be installed in the same location. By Mr. Picton, seconded by Mr. Bedini, and passed 4-0.

Hackney-Holiman/125 West Shore Road/IW-07-60/Reconstruct Deck and Studio: Mr. Neff presented his plan, "Soil Erosion and Sediment Control Plan," dated 10/22/07. He said the foundation of the building and deck was failing and sliding towards the lake, and therefore, the owners proposed to take them down, put a new foundation in, and rebuild to the same dimensions. The one change would be the roof line, which would increase the height of the structure. A site inspection was scheduled for Wednesday, October 31, 2007 at 5:00 p.m.

Enforcement

Andersson/35-45 Gunn Hill Road/Unauthorized Clearing, Trenching in Wetlands: Mr. Picton reviewed the comments made by Atty. Fisher at the show cause hearing. First, he noted that Atty. Fisher did not think the Commission had the authority to refer the matter to an outside consultant and to require the property owner to pay for it. Mr. Picton asked Mr. Ajello to confirm that under Town Ordinance #711 the Commission has the authority to require property owners to pay for the Commission's consultants to resolve enforcement matters as well as to review applications. Then he noted Atty. Fisher's objection to being ordered to submit a management plan. Mr. Picton made it clear that the management plan was for the restored wetlands areas; not for all wetlands on the property and not for those unaffected by the unauthorized activities. He explained that the restored areas must be managed for a time to make sure that they regain their lost functions. Mr. LaMuniere noted that much of the unauthorized activity was done in wetlands that had already been altered, and that he thought the greater problem was the trenching in the front field as that could have downstream impacts. Mr. Picton read the 9/28/07 Land Tech proposal/list of work covered in its estimate, noting that it included a management plan for the restoration of the disturbed wetlands. He said that to the specifically listed items, the Commission would add the consideration of the owner's proposals in light of Land Tech's findings and recommendations. He said, however, that Land Tech would not be directed by the owner's mitigation proposal, which in some areas would not be a substitute for restoration. Mr. Ajello reported that he had spoken with Land Tech about the amount of the estimate, which it thought was reasonable,

and about cooperating with the property owner, which it agreed to do if so requested by the Commission. Mr. Picton said Land Tech was to remain independent, but to work with useful information from the owner and to integrate that information into its review if it made sense and contributed to a professional approach to resolve the matter. Mr. Picton noted that Mr. Andersson was expected to post the bond requested, but said that because this was an enforcement matter the Commission could not wait any longer to resolve this matter and would ask Land Tech to begin its review. It was the consensus of the Commission that this was how the Commission should proceed.

MOTION: To keep in effect the enforcement order reissued on 10/22/07 to Mr. Andersson for unauthorized activities at 35-45 Gunn Hill Road. By Mrs. Hill, seconded by Mr. Bedini, and passed 4-0.

New Application

Sargeant/28 Tinker Hill Road/#IW-07-58/Install Dry Hydrant: Mr. Ajello reported that a more accurate map had been submitted as requested along with the usual construction specifications for dry hydrants. Action on this application will be taken at the next meeting.

Barnet/32 Sabbaday Lane/#IW-07-52/Reconstruct Barn: Mr. Picton noted he had inspected the property on his own. The map, "Historic Barn Reconstruction," by CES Engineering, revised to 9/28/07 was reviewed. It was noted the barn had already been taken down and a 1200 sq. ft. house would be erected within the same footprint. Mr. LaMuniere said the Commission needed construction details for both the driveway and turnaround. He also said that measures should be taken to preserve the large tree that was not shown on the map. Mr. Picton stated that the map submitted was not a construction drawing and so the whole impact of the project could not yet be determined. He thought there were other locations on this property where a house could be built and so asked to see feasible and prudent alternatives. In addition, he asked for site work and construction details and for a construction sequence.

Enforcement

Reinhardt and Cremona/Perkins Road/Execution of Approved Restoration Plan: It was noted that Mr. Childs had reported to the Commission that there were good reasons for waiting to do the required planting until late in the season.

Andersson/35-45 Gunn Hill Road: Mr. Picton noted it was only the review by Land Tech, not the restoration work, that would begin before the bond was posted by Mr. Andersson.

Carter/292 Walker Brook Road (141 Shinar Mountain Road)/#IW-04-V8/ Repair of Retaining Wall: Mr. Ajello reviewed the 10/17/07 letter from Mr. Hart of Milone and MacBroom, which contained the specific information requested by the Commission at the last meeting.

DiBenedetto/212-214 Calhoun Street/Restoration of Understory: Mr. Picton asked if Land Tech had begun to work on this project. Mr. Ajello said he had discussed this matter with Mr. Jontos and it was not yet known whether the scope of the work would be the disturbed area or the entire property. It was also unclear where the boundary lines were. Mr. Jontos will reinspect the site and said whether the scope of work increases, it would not change the cost estimate already given to the Commission.

Janko/11 June Road/#IW-07-V9/Excavation, Construction of Stairs: Mr. Picton asked if Mr. Ajello had developed corrective measures to keep the slope stable. Mr. Bedini asked if a citation had been issued. Mr. Ajello noted that usually citations are issued when the work has been done in the wetlands or has impacted a wetlands or watercourse, but said so far there had been no impact. It was agreed that Mr. Ajello should write to the owner as soon as possible to warn that if corrective measures are not implemented immediately, a citation will be issued.

Matthews/Painter Ridge Road/Unauthorized Trench Through Wetlands: Mr. Ajello reported a citation had been sent.

Moore/25 Litchfield Turnpike/Unauthorized Filling, Clear Cutting: Mr. Picton asked if Mr. Moore had completed the restoration work ordered by the Commission. Mr. Ajello said that planting remained to be done and that there was still an outstanding fine to be paid.

Brown/127 West Shore Road/Unauthorized Work Along Shoreline: Mr. Picton noted the wall still had not been taken out as ordered. Mr. Ajello noted a show cause hearing would be held at the next meeting. Mr. Picton asked that in the future, enforcement orders be sent out earlier in the process. Mr. LaMuniere suggested that there be a specified period in which to comply with an order and if this was not done, a second citation should be issued automatically.

Other Business

Fine Schedule: The Commission was still waiting to hear from Atty. Zizka.

Revision of the By-Laws/Quorum: Mrs. Hill circulated her 10/24/07 memo with proposed language to decrease the quorum from 4 to 3 members. It was decided to leave the number of members needed to vote to amend the By-Laws at 4. The vote will take place at the next meeting. It was also noted that the Commission wanted to be able to remove members for non participation when they repeatedly missed meetings with no excuse. It was thought the Commission could recommend to the Board of Selectmen that a member be removed and the Board could then act to do so.

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

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

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill

Land Use Coordinator
