

## March 8, 2006

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

ALTERNATES PRESENT: Ms. Coe, Mr. Thomson

STAFF PRESENT: Mr. Ajello, Mrs. Hill

ALSO PRESENT: Mr. Jontos, Mr. Owens, Mr. DeSantos, Mr. Charles, Mr./Mrs. Poskas, Mr. Neff, Mr. Allan, Atty. Kelly, Mrs. LaVerge, Mr. Munson, Mr. Wilson, Atty. Olson, Ms. Saul, Mr. Spath, Mr. Mack, Residents, Press

### PUBLIC HEARINGS

#### **Kessler/103-105 West Mountain Road/#IW-06-05/Two Dwellings, Driveway Crossing, Excavate Basin, Etc.**

Mr. Picton called the public hearing to order at 5:05 p.m. and seated Members Bedini, Hill, LaMuniere, and Picton and Alternate Coe for Ms. Purnell. He noted there was only an hour scheduled for the hearing and so hoped to keep to the following schedule; 20 minutes each for the applicant's presentation, questions from the Commission, and comments from the public. He referred to the list of documents in the file, which included all of the documents from the first application, and said they were all available for public inspection.

Ms. Purnell arrived at this point.

Mr. Owens, architect, submitted the following documents for the record: 1) the 3/8/06 transmittal to Mr. Ajello from Mr. Owens listing the documents the applicant requests be included in the record. Mr. Owens asked that this list be checked against the Commission's list referred to previously by Mr. Picton. 2) the 3/2/06 letter from Mr. and Mrs. Kessler re: their apologies for not being able to attend the hearing. 3) the 3/8/06 letter to Mr. Picton from Halper Owens Architects re: revisions to its original 1/11/06 analysis of feasible and prudent alternatives. 4) The plan, "Main House Alternative, #A004," dated 3/8/06, by Halper Owens Architects, which he described as a grading study of the house totally removed from the upland review area.

Mr. Picton introduced Mr. DeSantos, the Commission's consultant from Fuss and O'Neill.

Mr. Jontos, applicants' consultant, listed his credentials and submitted the following information: 1) the 3/8/06 letter to Mr. Picton and Commissioners re: response to the Fuss and O'Neill review, 2) the 3/8/06 letter to Mr. Ajello from Mr. Jontos re: update on the Natural Diversity Data Base species, 3) the 2/21/06 memo to Mr. Jontos from Mr. Allan, re: additional soils investigation, and 4) "Wetland Mitigation Plan," by Land Tech Consultants, Inc., revised to 3/8/06. He then briefly described the different types of wetlands and watercourses on the property and the activities proposed.

Mr. Jontos stated that other than the proposed planting, the only direct impact to the wetlands and watercourses would be the replacement of the bridge. He quickly detailed revisions to the plans and responses to the revised Fuss and O'Neill report. These included: 1) He proposed to leave the sediment in the basin behind the weir and instead introduce vegetation by seed and direct planting. This would enhance the condition of the basin by using bioremediation to remove the accumulated nutrients within the system and it would also diversify the habitat. Thus, the revised plan eliminated a direct impact to wetlands. 2) He explained how the increase in runoff generated by the 3000 sq. ft. of impervious areas around the newly constructed house would be managed. A yard drain would be installed in the center of the driveway area. This would be discharged into a small plunge area in the center of the proposed bioretention area. Also, cross drainage over the driveway would flow to the stone weir, which would

trap sediment. Mr. Jontos noted Fuss and O'Neill had requested additional soil testing, so deep tests pits were done. One was in the area proposed for the bioretention system and it was determined the Charlton soil in this location had excellent infiltration capacity. He reviewed the details on Sheet #2 of the mitigation plan for sheet flow to Wetland A, the installation of a level spreader, and the revegetation of the surface. Mr. Jontos said soils tests were done to the east of the driveway, but it was found this area was not suitable for the installation of an infiltration system. He noted if the Commission was uncomfortable with the plans for the bioretention system, then an infiltration system with a locus spreader, which flows through a vegetative filter and then to the wetlands could be implemented. He reviewed the construction details, sequence of construction, and maintenance plans on Sheet 3, and stated in either case, the runoff would be managed in a way that would protect the surface and the groundwater quality. Mr. Picton asked Mr. DeSantos to review the revisions and improvements and comment on the alternative plans proposed.

The replacement of the bridge was discussed and the plan, "Proposed Driveway Bridge Installation, by Mr. Neff, revised to 2/18/06 was reviewed. Mr. Jontos stated this would require little activity in the streambed. Mr. Neff, engineer, said the temporary sediment basin details in this plan had been revised to reflect concerns raised by Fuss and O'Neill. The plans now called for a larger square basin with one row of hay bales and rip rap at the outlet of the discharge pipe.

Mr. Neff had also made changes to the "Soil Erosion and Sediment Control Plan," revised to 3/4/06 and the "Proposed Grading Plan," revised to 3/1/06 in response to comments by Fuss and O'Neill. Mr. Neff stated there was minor regrading proposed in spots, changes to the discharge basin, and the addition of a roof infiltration system for the guest house. He noted the site was very constrained and the Health Department had approved this infiltration system only 25 feet from the well. Again, Mr. Picton asked Mr. DeSantos to review the revisions.

As he thought the permanent protection of the wetlands buffers was critical to maintaining wetlands functions, Mr. Picton asked which activities actually would extend to the limit of disturbance line and what activities could be proposed as alternatives with less impact. He noted the width of the buffer needed to protect the wetlands would vary according to the steepness of slope and other site conditions.

Mr. Owens referred to the 20 scale main house proposal, which showed both the originally proposed location and an alternate location where it was completely outside the 100 ft. upland review area. He explained the original house site had been carefully selected to place it in a less risky position in relation to the existing slopes, where although it was on the edge of the steep slope, little regrading would be required. The alternate site, however, would require the building be raised in elevation 1 ft. resulting in a significant amount of regrading. Mr. Picton asked if it could be moved further back into the hill. Mr. Owen responded that part of the house would be underground and regrading would still be required. Mr. Picton responded that regrading on the side opposite the wetlands was of less concern to the Commission. He also asked why a change in architectural plans wasn't considered as a feasible and prudent alternative. Mr. Owens responded the plans met the objectives of his clients and would not cause an adverse impact to the wetlands.

Mr. Silverman, adjoining property owner, said he generally had no opposition to the proposal, noting one house on the property was better than two. Ms. Purnell noted two houses were proposed.

Mrs. Poskas, adjoining property owner, questioned what the impact would be on Sprain Brook. As a downstream neighbor, she stated this was her major concern. Mr. Picton advised her that the Commission was struggling with this question and had hired a consultant to thoroughly review the plans. He said the Commission was working to protect the brook from any impact.

Mr. Picton asked Mr. DeSantos when he reviewed the line of disturbance associated with the proposed activities to list the possible adverse impacts. He then asked if the surface was regraded and machinery

was operated up to the limit of disturbance line, would this result in compacted soils that could result in an impact to the wetlands. Mr. DeSantos said it depended on the site hydrology and other factors such as the amount of additional impervious area, whether the runoff velocity had increased, whether erosion increased, etc. Mr. Picton asked him to review the limit of disturbance line in relation to the wetlands and whether soil compaction in this area would result in the loss of the soils' absorption capacity.

Mr. Owens noted the Commission should be concerned with likely adverse impacts, not possible adverse impacts to the wetlands. Ms. Purnell stated the Commission was concerned with both the short term impacts during and immediately after construction and the long term impacts. Atty. Olson explained the regulations govern likely impacts, but the Commission must look at all the possibilities in order to determine whether there are likely adverse impacts.

Mr. LaMunier asked what measures the applicant proposed to remedy impacts such as soil compaction. He suggested they could be addressed with a precise construction sequence. He noted he was most concerned about the impacts immediately following construction and asked the applicant to demonstrate they would be minimal and would be corrected to the greatest extent possible.

The definition and method of measuring compaction were briefly discussed.

Mr. Picton asked if the soils in the stockpile area for the guest house were wetlands soils. Mr. Jontos said they were not, that this information was contained in his revised report, and that this stockpile had been relocated further south to avoid the spring activity in the area. Mr. Picton noted Mr. Wilson from Fuss and O'Neill had found wetlands soils in the stockpile area and so requested additional information from him. Mr. Jontos asked that Mr. Wilson identify the exact location of the wetlands soils.

Mr. Picton asked if the applicant had considered additional permanent protection of the critical portions of the upland review areas, which were indicated on the map as not to be disturbed. He noted, for example, the revised limit of disturbance line in the area near the guest house was only 20 ft. from wetlands. He asked what kind of work would be done within 20 ft. of wetlands and whether all types of work including operation of machinery would be permitted here. Mr. Owens said grading was specified for this area. Mr. DeSantos noted any trees to be cut beyond this line would have to be cut by hand. Mr. Jontos said he would add this note to the commentary.

Mr. LaMunier asked if data had been submitted to show how much more disturbance would result from construction in the alternate main house location. Mr. Owens said it had. Mr. Picton asked Mr. DeSantos to investigate feasible and prudent alternatives including different configurations of the dwelling as well as different locations. Mr. Owens objected, saying it would be inappropriate to entertain a design process at the hearing unless it had been demonstrated the proposed activities would have a likely adverse impact on the wetlands.

There was a brief discussion regarding the continuation of the hearing. The Commissioners were asked to submit final questions by the next meeting at the latest. It was agreed the consultants could confer directly regarding the review of the materials submitted.

MOTION: To continue the public hearing to consider Application #IW-06-05 submitted by Mr. and Mrs. Kessler for two dwellings, driveway crossing, excavation of basin, etc. at 103-105 West Mountain Road to 6:00 p.m. on Wednesday, April 12, 2006 in the Land Use Meeting Room, Bryan Memorial Town Hall. By Mr. Picton, seconded by Mr. Bedini, and passed 5-0.

At 6:14 p.m. Mr. Picton continued the public hearing to 6:00 p.m. on Wednesday, April 12, 2006 in the Land Use Meeting Room, Bryan Memorial Town Hall.

**Spring Hill Farms, LLC./69 Whittlesey Road/#IW-05-74/Reconstruct, Enlarge, Relocate Building**

Mr. Picton called the public hearing to order at 6:17 p.m. and seated Members Bedini, Hill, LaMuniere, Picton, and Purnell. He noted the Commission's technical consultant, Mr. Allan, and attorney, Ms. Olson, were present. For the record he then referred to the list of fifty-one documents in the file.

Mr. Neff, engineer, submitted revised plans, "Septic System Repair Plan," revised to 3/4/06, which addressed the points raised by Mr. Allan in his letter dated 2/23/06. Revisions included: 1) The building was relocated approximately half way between the pond and the wetlands to the north and had also been moved slightly west. Mr. Neff said this was a good idea because it would move the footing drain far enough away from the wetlands to the north so that it would not impact the groundwater table there. 2) Originally there were no plans to change the existing drainage ditch. The revised plans proposed to cut back the sides, install a turf stabilization blanket, and to plant a grass seed mix. 3) The stone wall would be moved to the south side of the ditch where it would create a permanent barrier between the ditch and the yard. 4) Orange barrier fencing would be installed along the limit of disturbance line so it would be clearly marked in the field. The limit of disturbance line was also added to the "Soil Erosion and Sediment Control Plan." 5) Check dams would be installed in the ditch. Mr. Neff detailed their construction specifications. 6) The driveway loop was deleted and a new driveway route configured. A temporary contractors' parking area was shown on the site plan in an area where the wetlands would not be adversely impacted. The construction sequence noted this area would be removed and replanted upon the completion of construction. 7) Mr. Neff noted the overall area of disturbance had decreased due to the latest revisions. 8) A 25 ft. wide shrub buffer was added at the west side of the house as recommended by Mr. Allan. 9) An additional 40 ft. wide buffer area was added on the south side of the driveway. Invasive species will be removed in this area and it will be replanted with native plants and course grasses. The buffer area is addressed in the erosion control plan and the EMS planting plan. Mr. Picton noted limited cutting of the course grasses would be an improvement over the existing lawn. 10) To address the current erosion problem in the area at the southwest side of the house, the break in the stone wall would be widened to 20 ft. and the threshold rebuilt to make it into a level spreader, which would both slow the velocity and spread out the runoff to eliminate the erosive conditions below. 11) Repairs were proposed for the northeast corner of the stone wall where an erosion problem currently exists. A 10 ft. long return to create a catchment point would be constructed of dry stone so it would be porous enough for the drainage to flow through. Mr. Owens noted the position of the wall was at the edge of the maintained area and would permanently define the limits of this area so there would be no chance that it would be gradually enlarged.

Mr. Neff discussed the modifications to the plan, "Soil and Erosion Control Plan," revised to 3/5/06. These included: 1) a cross section of the drainage ditch as detailed above, 2) addition of sections of the stone wall and overview of the drainage ditch, 3) modification of the construction sequence, and 4) addition of miscellaneous notes.

Mr. Owens submitted updated coverage figures resulting from the relocation of the house and reconfiguration of the driveway and pointed out there would be a significant reduction in coverage. The commissioners noted, however, this was accomplished by reducing the amount of driveway; the building footprint would more than double. Mr. Owens noted all the formerly untreated roof water will be recharged under the proposed plan. Mr. Picton asked Mr. Allan whether there was a qualitative difference in the building coverage, a hard surface, vs. the driveway surface coverage. He also asked Mr. Allan to address the increase in the building size in relation to the wetlands.

Representing the applicant, Atty. Kelly said these answers had already been covered in Mr. Allan's review, adding that Mr. Neff had made a good faith attempt to address each concern raised, so therefore, there would be no significant adverse impact to the wetlands or watercourse. He questioned the Commissioners' right to ask additional questions because he said it supposed they had a foundation as experts. Ms. Purnell explained the Commission generated a better response from its consultants

when it asked its own questions for its own greater understanding. Atty. Olson noted new plans had been submitted this evening and the Commission had the right to ask additional questions.

Regarding the increase in the building footprint, Mr. Allan responded that although the size would, indeed, double, the stormwater infiltration system proposed would capture 99% of the runoff and be an improvement over the existing conditions. He noted the increased use of the site due to the improvements to the building was more difficult to quantify. Mr. Picton asked if he thought there would be an impact. Mr. Allan said even if there would, it would be confined to the area bound by the stone walls. He said the number of people who might use the building was not as important to consider as the area of impact and that had been the reason he had recommended the natural buffer areas. Ms. Purnell asked if he had any suggestions on how the Commission could ensure the course meadow remains course meadow, as it has been its experience that they usually get mowed and revert to lawn. Mr. Allan suggested 4X4 posts be installed with conservation emblems that state, don't mow beyond.... Mr. Picton noted the importance of keeping the mitigation long term. Ms. Purnell noted the other increase in use was seasonal to year round. She asked if that impact could be quantified when considering snow plowing and deicing. Mr. Allan noted the driveway was gravel so he did not think much sand would be used. Atty. Kelly said most of the driveway is the existing farm road and there was no intention to ever pave it. Ms. Purnell noted the buffer areas would help to ameliorate any problems. Ms. Purnell asked about the soil borings in the area of the foundation and whether the proposed foundation work would impact the subsurface flow in the area. Mr. Allan said he found no fault with the boring results and did not foresee that the foundation work would impact the pond.

Mrs. LaVerge noted she had written the ZBA a letter in support of the project.

Atty. Kelly attempted to get Mr. Allan to say for the record that each of the concerns raised in Land Tech's 2/23/06 review had been adequately addressed by the revised plans. Mr. Picton, however, asked that Mr. Allan do a thorough review of the plans and inform the Commission in writing whether or not all of his concerns had been addressed.

Atty. Kelly noted there had been a comment at an earlier meeting that the application was incomplete. Ms. Purnell said it appeared to be complete now, but she would have to go through it on her own to be sure. Atty. Kelly asked that she do that right now as his client had the right to know.

Atty. Kelly submitted the 3/8/06 letter in which he stated the following: 1) Under Section 22a-42a and 8-7d, the public hearing had to commence within 65 days of receipt of the application and therefore, the hearing was invalid. 2) It was his legal opinion that 69 Whittlesey Road is a valid, separate building lot. 3) Since the Commission had no legal right to hold a public hearing, it had no legal right to require the consideration of feasible and prudent alternatives. 4) The Inland Wetlands Commission only has the right to regulate activities, which are likely to adversely impact wetlands and watercourses, not their buffer areas. 5) The determination of whether there is likely to be a significant impact on a wetlands or watercourse must come from expert testimony.

Mr. Majewski, applicant's consultant, submitted his 3/8/06 letter to Mr. Kelly re: review of Commission's consultant's review and mitigation and planting plans.

There was a brief discussion regarding whether to continue the public hearing. It was the consensus that continuing the hearing to March 29th would provide the applicant with enough time to respond to Mr. Allan's comments if necessary.

MOTION: To continue the public hearing and to hold a Special Meeting to consider Application #IW-05-74 submitted by Spring Hill Farms, LLC. to rebuild, enlarge, and relocate the building at 69 Whittlesey Road to 6:00 p.m. on Wednesday, March 29, 2006 in the Land Use Meeting Room, Bryan Memorial Town Hall. By Mr. Picton, seconded by Mr. Bedini, and passed 5-0.

At 7:21 p.m. Mr. Picton continued the public hearing to Wednesday, March 29, 2006 at 6:00 p.m. in the Land Use Meeting Room.

#### SHOW CAUSE HEARING

##### **Peck/10 Slaughterhouse Road/Unauthorized Excavation and Tree Removal**

Mr. Picton called the show cause hearing to order at 7:22 p.m. and seated Members Bedini, Hill, LaMuniere, Picton, and Purnell.

Mr. Ajello noted he had issued an enforcement order on March 1, 2006 and had discussed the violation with Mr. Peck who would not attend tonight's hearing to contest the order. He reported Mr. Peck was cooperating and had already hired a soil scientist to delineate the wetlands on the property.

Mr. Picton noted the order had been issued and the property owner did not contest it.

MOTION: To close the show cause hearing for Peck/10 Slaughterhouse Road/Unauthorized Cutting and Regrading. By Ms. Purnell, seconded by Mr. Bedini, and passed 5-0.

Mr. Picton closed the hearing at 7:25 p.m.

These public hearings were 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 7:45 p.m. and seated Members Bedini, Hill, LaMuniere, Picton, and Purnell.

MOTION: To include subsequent business not already posted on the agenda: Other Business: 1) Revision of Section 8.1 of the Regulations and 2) 2 DEP Pesticide Application Permits. By Mr. Picton, seconded by Mrs. Hill, and passed 5-0.

#### Consideration of the Minutes

The 2/22/06 Show Cause Hearing - Regular Meeting minutes were accepted as corrected.

Page 1: 9th line: Delete: "had" and "been" to read: ...wetlands and not authorized....

Page 5: End of the first motion: Change: Mr. Charles to Mr. LaMuniere.

Page 7: Under Washington Montessori School: 3rd line: Delete: "as required by Mr. Bernard."

MOTION: To accept the 2/22/05 Regular Meeting minutes as corrected. By Mr. Picton, seconded by Mr. Bedini, and passed 5-0.

The 2/28/06 Kleinberg Site Inspection minutes were accepted as corrected.

1) Correct the spelling of "perc" test.

2) 4th sentence: Insert "upward" to read: ...steeply upward to the south."

MOTION: To accept the 2/28/06 Kleinberg site inspection minutes as corrected. By Mr. Picton, seconded by Mr. LaMuniere, and passed 5-0.

MOTION: To accept the 2/28/06 Schneider site inspection minutes as submitted. By Mr. Picton, seconded by Mrs. Hill, and passed 5-0.

MOTION: To accept the 2/28/06 Calhoun Street Trust site inspection minutes as written. By Mr. Picton, seconded by Mr. Bedini, and passed 5-0.

#### Pending Applications

**Brighenti/49 Calhoun Street/#IW-05-71/Tennis Court:** Mr. Brighenti submitted the A-2 survey map, "Site Analysis Plan," by Mr. Alex, dated March 2006, which, he said, was revised according to Land Tech's recommendations. The major revision was the proposed stone retaining wall at the southwest corner of the court. The wall would be 4 ft. tall at its "worst" corner and would pull back the limit of disturbance to 164 ft. from the wetlands. He reviewed Mr. Allan's 1/24/06 report item by item and noted corresponding changes in the plan including: 1) There would be no disturbance or regrading on the steep slope. 2) All runoff was directed to the north. 3) No filling would be required except at the one corner where the retaining wall would be built. 4) The silt fence was specified as the limit of disturbance line. It was also noted information on access routes and the limit of clearing was provided. The curtain drain details were discussed and it was noted they would take the overland flow as well as the court runoff. Mr. Brighenti noted the construction sequence had been submitted previously and he read M&M's construction timetable. Mr. Picton noted the plan was not engineered as had been requested by the Commission, but it was drawn according to Mr. Allan's recommendations. He advised Mr. Brighenti to wait for the dry season before beginning work. The commissioners thought the plan was greatly improved and responsive to the concerns raised. Mr. Allan will study the revised plans and submit a written review.

**Spring Hill Farms, LLC./69 Whittlesey Road/#IW-05-74/Reconstruct, Enlarge, and Relocate Building:** The public hearing was continued to 6:00 p.m. on 3/29/06. There was no further discussion.

**Private Mortgage Fund, LLC./59 South Fenn Hill Road/#IW-06-01/Revisions to Original Permit: Driveway, Fence, Generator, Retaining Wall, Etc.:** Mr. Fenwick, contractor, and Mr. Spath and Mr. Mack, engineers, were present. The revised plan, "Modified Site Plan," by Stuart Somers Co., LLC., revised to 3/13/06 was reviewed. Mr. Spath noted the slope had been revised to 2.5:1 from the original 2:1 proposed and that this had been made possible by moving the pool back. He said there would be no disturbance within 100 feet of wetlands. Mr. Spath and Mr. Mack explained the revisions made to the pool drains and noted they probably were not necessary because the flow drained away from the steep slope. Mr. Picton noted the retaining wall at the toe of the slope had been moved slightly further from the wetlands and asked that a limit of disturbance line be shown on the plan. Ms. Purnell asked if the fill already placed on site had been compacted in lifts. Mr. Spath said this would be done to ensure there would be no erosion. Mr. Fenwick noted there are currently three rows of silt fence and staked hay bales installed so the entire hillside was under control. It was the consensus of the commissioners that the modified slope proposed was safer and more workable even though it was not the 3:1 slope recommended by Mr. Allan. Possible conditions of approval were discussed including provisions for the limit of disturbance line and work area, future maintenance of the lower field, posting of a bond for the erosion controls, soil testing and compaction requirements, and inspections.

**MOTION:** To approve Application #IW-06-01 submitted by Private Mortgage Fund, LLC. for revisions to permit/Driveway, Generator, Retaining Wall, Etc. per the map, "Modified Site Plan," by Stuart Somers Co., LLC. revised to 3/3/06 subject to the following conditions: 1) The line of silt fence defines the limit of the work area except below the proposed retaining wall, where the work area may extend 12 feet out from the wall and if any machine activity is necessary beyond 12 ft. from the wall, additional silt fence will be installed immediately down slope of it, 2. Native vegetation shall be allowed to grow undisturbed within 30 feet of all wetlands and watercourse areas, 3) Inland Wetlands Commission authority encompasses any clear cutting of vegetation, whether understory or canopy, and disturbance of soil within 100 feet of all wetlands and watercourses. Such activities require a Wetland review and in most cases a permit. 4) A \$5000 sedimentation and erosion control cash bond must be filed with the Town to secure performance. It will be released when the site is fully stabilized to the satisfaction of the Wetlands Enforcement Officer. 5) There shall be inspections and reports to the Commission during and after construction to ensure the compaction has been properly completed per

the plan approved. By Mr. LaMuniere, seconded by Mrs. Hill, and passed 5-0.

Ms. Purnell asked if heavy machinery encroached in the upland review area, how the soil could be uncompacted. Mr. Allen responded the top soil could be stripped and the subsoil scoured with a track machine to a depth of 12 inches. Mr. Picton thanked Mr. Fenwick for his cooperation and noted a greatly improved plan had resulted.

**Kessler/103-105 West Mountain Road/#IW-06-05/Two Dwellings, Driveway Crossing, Etc.:** This public hearing was continued to 6:00 p.m. on April 12, 2006. There was no further discussion.

**Kleinberg/181 West Shore Road/#IW-06-07/Driveway and Utilities:** Mr. Wilson, engineer, represented the applicant. In response to the Commission's question regarding whether the parcel is an approved building lot, he submitted a copy of map #357 on the Town Land Records, "Plot Plan, Tinker Hill Estates," by Mr. Osbourne, dated 12/6/74 with a note by Mr. Callahan, Planning Commission chairman that the subdivision had been approved on 5/6/75. He pointed out the location of the parcel on the Assessor's Map. The map, "Site Plan," by Mr. Wilson, revised to 3/8/06 was reviewed. Mr. Wilson said he had added a limit of disturbance line, the location of the intermittent watercourse, and a stockpile area as had been requested at the 2/28/06 site inspection. Mr. Bedini noted the application was originally for underground utilities, but the current proposal indicated they would be brought in from the existing line on the top portion of the property. Mr. Wilson indicated he had added an optional underdrain with a catch basin at the end of the proposed driveway to handle the runoff. Mr. Bedini asked if the runoff would become a problem if the driveway was paved, and if paved, how would the velocity be slowed down. It was noted the driveway grade was 14.5%. Mr. Wilson said there would be a flat swale with a reinforced turf mat along the edge of the driveway. Mr. Wilson said the septic system would be located on another lot. Mr. Picton thought the site required a careful design and should have a technical review. Mr. Bedini asked whether the driveway and roof drainage would cause problems and whether there would actually be a feasible development plan for the site. He said he did not want to approve a driveway to nowhere. The site conditions were discussed. Mr. Wilson said the grade averaged 25% and that the property was wooded. He noted the driveway had been located to preserve the large trees. He also stated the roof drains for any future house would discharge to an area where the runoff could infiltrate. Mr. Ajello noted there was standing water at the roadside. Mr. Wilson said the construction of a house was not proposed at this time and said he had responded to all relevant questions. Ms. Purnell asked if curtain drains would be required for the septic system. Mr. Picton thought perhaps a detention or biofiltration structure should be considered. Mrs. D. Hill noted drainage from off site was flowing into this property and asked if all the wetlands above and to the east had been flagged. Mr. Picton asked that a copy of the soils report and sketch map be submitted. Mrs. D. Hill also noted the property could not be considered an approved building lot until the Health Department had approved it was feasible to install a septic system on it. Mr. LaMuniere voiced his concern about clearing the trees on this property as it is one of the few remaining densely wooded and understoried areas around Lake Waramaug. It was the consensus to refer the application to Land Tech for review.

**Schneider/97 Lower Church Hill Road/#IW-06-08/Replace Bridge and Pergola, Landscaping:** Mr. Neff, engineer, submitted photos of the existing bridge and pergola. The map, "Site Plan," by McCobb & Assoc., dated 1/4/06 with the proposed activities highlighted in color was reviewed. It was noted all of the proposed planting would be done by hand and no chemical fertilizers would be used. Mr. Neff stated the existing cement base for the pergola would be removed and a small backhoe would dig holes for the sono tubes for the new structure. Mr. Ajello advised the applicant to add the installation of a pool fence to the plans. Mr. Neff pointed out the location of existing fences. Mr. LaMuniere had inspected the site and reviewed the plans and was satisfied there would be no wetlands issues as long as the planting was done by hand as specified.

**MOTION:** To approve Application #IW-06-08 submitted by Mr. Schneider to replace the pergola and

bridge and landscape at 97 Lower Church Hill Road as submitted. By Mr. Picton, seconded by Mrs. Hill, and passed 5-0.

#### Enforcement

**Calhoun Street Trust/62 Calhoun Street/Unauthorized Construction:** Mr. Munson, contractor, and Mr. Neff, engineer, were present. The map, "House Site Plan," by Mr. Neff, dated 2/21/06, which showed the location of the two unauthorized retaining walls, was reviewed. Mr. Picton noted as a condition of approval for another project, the Commission had specified the preservation of a 30 ft. wider buffer area around the wetlands and asked that this be shown on this map. The construction of the walls and the filling that had been done was briefly discussed. Mr. Neff said the owner wanted to apply for an after-the-fact permit for the retaining walls and mitigation rather than remove the walls. Mr. Munson indicated the owners would also like to build another wall. Mr. Picton voiced his concern that the maintained area keeps pushing closer to the wetlands. He suggested a fence 50 ft. from the wetlands so there would be a visible barrier with the area beyond it required to remain in its natural state. Mr. LaMunier thought a strong mitigation effort should also be required. Mr. Picton asked for a serious site plan showing mitigation to protect the wetland buffer and natural areas throughout the property. He asked that this plan be placed on a site plan showing the entire property so the Commission would have a comprehensive view of all the activities approved and proposed. Mr. Ajello noted the owner had already paid the citation.

#### New Applications

**Getnick/237 West Shore Road/#IW-06-09/Repair Wall:** Mr. Ajello explained the proposal to repair the existing shoreline wall. Mr. Picton read the description of the work to be done, undated, unsigned. Mr. Ajello stated in addition to the ten points noted, he had asked that the work be done during a period of low water. The map, "Proposed Site Plan," dated March 2, 1990 with handwritten notes regarding the portion of the wall to be repaired was reviewed. Mr. Picton asked if the bottom of the wall was below the water and whether Mr. Ajello was OK with the use of mortar. Mr. Ajello said at times of high water the bottom of the wall was in the water and that he did not object to the use of mortar. Ms. Purnell asked Mr. Ajello to take photos to document the size of the existing wall.

**Averill/7 Titus Road/#IW-06-10ATF/Excavation of Contaminated Soil:** Mr. Ajello noted the work had already begun and he had given his OK for it to continue because tests showed that additional contaminated material must be removed from the property. The digging will go down about 2 more ft. He explained the area of excavation was half way between the Shepaug and the asphalt parking lot, approximately 25 feet from the river. Mr. Ajello noted the application had come in at the last minute and was not detailed. The sketch map, "Excavation of Contaminated Soil," by Mr. MacCaskie, dated 3/6/06 was reviewed. Mr. Ajello advised the Commission the excavated material was being taken immediately off site; that it was material from elsewhere on the Titus Park Garage property that was stockpiled along Titus Road, and that he had asked that this pile be covered and a silt fence installed around it. Mr. Ajello noted Mr. Averill was considering abandoning the use of the area being excavated for parking wrecked vehicles. Mr. Picton noted the continued excavation was in the long term best interest of the river, but advised Mr. Ajello to continue to monitor the site as the Commission was concerned about possible short term impacts.

#### Enforcement Report

**Beck/132 Calhoun Street/#IW-02-V1/Clearing and Cutting in Wetlands:** Mr. Ajello said it would not be known until the spring growth could be observed whether the efforts last year to remove the invasive species had been successful. He recommended the Becks put enough money in escrow to retain Mrs. Corrigan and to manage the invasives for one to two years and said he would have to get an estimate of how much this would cost. He hoped to get this off the agenda soon.

**Peck/10 Slaughterhouse Road/Excavation, Tree Removal:** Mr. Ajello questioned whether the bike path was a low intensity recreational use that would be permitted by the Zoning Commission in the R-1 District.

**Taylor/11 Sunset Lane/Unauthorized Excavation in Wetlands:** Mr. Ajello had not received any new information from the Taylors. Mr. Picton advised him to continue to monitor the property and suggested a second citation might be in order for a continued violation. Mr. Ajello said he would send another letter to advise the property owners that unless they respond immediately, further enforcement action will be taken.

**Feola/84 Carmel Hill Road:** It was noted the restoration plan had been approved at the last meeting. Mr. Ajello will monitor the work when it begins.

**Pasatieri/57 Findley Road/Septic Repair:** There was no new information.

**9 Main Street Assoc./9 Main St./Stone Wall:** There was no new information.

Other Business

**Montessori School/240 Litchfield Turnpike/Project Completion-Release of Bond:** There was no new information.

**Ingrassia/135 East Shore Road/Fence:** Mr. Ajello reported he had approved this application as the Commission had authorized at the last meeting.

**Revision of the Regulations/Section 8.1:** Mrs. J. Hill circulated her 3/6/06 email to Atty. Zizka. She pointed out Atty. Zizka had recommended slightly different language than the Commission had agreed upon at the last meeting. It was the consensus to follow his recommendations. The existing Section 8.1 will be deleted and the following sentence inserted instead: "The Commission may hold a public hearing on any application to conduct regulated activities, provided that the decision to hold such hearing is made in accordance with the relevant provisions of state law."

Mrs. J. Hill will refer the proposed revision to the DEP as required and schedule a public hearing for the second meeting in April.

**Kleinberg/181 West Shore Road/#IW-06-07/Driveway and Utilities:** It was the consensus the proposed activities were likely to have a significant impact on wetlands and watercourse and so a public hearing should be scheduled for Wednesday, April 12, 2006.

**Walker Brook Subdivision II, New Milford:** Mr. Picton again expressed the Commission's appreciation for the work done by Ms. Purnell and Mr. LaMunier. Ms. Purnell reported the Planning Commission public hearing had been continued to March 16 at 7:00 p.m. and the Inland Wetlands hearing to March 23. It was noted the application was still for 78 lots. A major question was whether so dense a development so far from New Milford's town center was sustainable. Mr. LaMunier voiced his concern that the approval of this application as it is now proposed would mean the end of Walker Brook as we know it. Ms. Purnell urged that a base line study be done immediately to document existing conditions and it was the consensus this should be undertaken. Ms. Purnell said WEC might agree to fund the study and said a letter should be sent to ask if it would do so.

**Myfield, LLC/7 Mygatt Road/10 Dwelling Units:** It was noted the proposal had been revised slightly for the Zoning Commission and so would have to return to the Wetlands Commission for review.

**DEP Pesticide Application Permits:** It was noted the Commission had received notification the DEP had approved applications for Lemonade Pond and the pond on the Meyer's property on Senff Road. A stream flows through at least one of the ponds. Mrs. Hill was asked to send a letter to the DEP to voice the Commission's concerns. Mr. Tessatore of the DEP is working with the pesticide division to establish

procedures that will take into consideration the opinions of local wetlands commissions before granting these permits.

**Allen/158 Popple Swamp Road:** Mrs. D. Hill said she learned of this application for a single family dwelling and accessory apartment from the newspaper, noted there were wetlands on the property, and asked why the Commission had not been asked to review the plans. Mr. Picton said Mr. Ajello thought it was not necessary because the activities were just out of the 100 ft. setback and this portion of the property was fairly level. Mrs. Hill noted this was a large scale project and thought the Commission should be consistent. She said, for example, the Commission had required an application from Mr. Tagley for a similar project. Ms. Coe and Mr. LaMuniere agreed. Mr. Picton asked that the site plan be brought in for review at the next meeting.

MOTION: To enter into Executive Session at 10:10 p.m. to discuss pending litigation. By Mr. Picton, seconded by Mrs. Hill, and passed 5-0.

MOTION: To end Executive Session at 10:17 p.m. By Mr. Picton, seconded by Ms. Purnell, and passed 5-0.

**Gatto/155 Woodbury Road:** As had been discussed and agreed upon in executive session, the Commission made the following motion:

MOTION: To authorize the WEO to write to Mr. and Mrs. Gatto/155 Woodbury Road to inform them 1) the Commission will accept the proposed planting plan with the stipulation that only native plants may be used and 2) when the Wetlands Enforcement Officer has approved the plan, enforcement proceedings will be terminated. By Mrs. Hill, seconded by Mr. Picton, and passed 5-0.

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

Mr. Picton adjourned the meeting at 10:20 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill, Land Use Coordinator