

## March 22, 2006

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

MEMBER ABSENT: Mr. Picton

ALTERNATES PRESENT: Ms. Coe, Mr. Thomson

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

ALSO PRESENT: Mr. Munson, Mr. Neff, Mr. Rosiello

Mrs. D. Hill called the meeting to order at 7:05 p.m. and seated Members Bedini, Hill, LaMuniere, and Purnell and Alternate Thomson for Mr. Picton.

MOTION: To add the following subsequent business to the agenda: 1) New Applications: A. Schaffner/12 Painter Ridge Road/#IW-06-11/ Inground Pool, B. Linen/34-38 New Preston Hill Road/#IW-06-12/Site Grading, C. Town of Washington/2 Bryan Plaza/#IW-06-13E/ Plant Vegetative Buffer Around Pond: 2) Enforcement: A. Potter/220 Old Litchfield Road/Unauthorized Cutting and Soil Disturbance: 3) Allen/159 Popple Swamp Road/Site Plan Review for Single Family Dwelling. By Ms. Purnell, seconded by Mr. LaMuniere, and passed 5-0.

Consideration of the Minutes

The 3/8/06 Regular Meeting - Public Hearing - Show Cause Hearing minutes were accepted as corrected.

Page 1: Add to Also Present: Mr. Brighenti and Mr. Fenwick

Pages 5-6: Change to "coarse" meadow grass.

Page 9: Sentence beginning in the 5th line under Brighenti: Insert: "sloped up" before "from the wetlands."

3rd line under Private Mortgage Fund: Correct date of revised map is 3/3/06

Page 10: 2nd line under the motion: Correct spelling is Allan.

Page 11: 7th line: Change "requested" to "suggested."

10th line: Insert: "on the lot" after "existing line."

Last sentence under Kleinberg: Insert at the end: "...following submission and payment of that firm's estimated fee by the applicant."

Page 12: 6th line from bottom under Calhoun Street Trust: Change: "serious" to "comprehensive."

Last line under Calhoun St. Trust: Add: "fee" at end of the sentence.

Last sentence under Getnick: Delete: "...the size of...."

Page 14: 5th line under DEP Permits: Correct spelling is Tessitore.

Under DEP Permits: Add final sentence: "Ms. Purnell offered an update on Roxbury's recent letter to the pesticide division of the DEP and the Attorney General's Office."

Page 15: Motion under Gatto: Add to end of 6th line: "and installation."

MOTION: To accept the Public Hearing-Show Cause Hearing-Regular Meeting minutes as corrected. By Mr. Bedini, seconded by Mr. LaMuniere, and passed 5-0.

## Pending Applications

**Brighenti/49 Calhoun Street/#IW-05-71/Tennis Court:** Mr. Ajello read sections of Mr. Allan's 3/22/06 review, which made two points: 1) It was likely additional work area would be required adjacent to the stone wall during its construction because the silt fence was shown at the edge of the wall, leaving no room for the work to be done and 2) There was a possibility that the depth and close proximity of the proposed excavation would result in the discharge of partially treated sewage onto the tennis court or into the gravel base at the at the western end of the septic system and then into the drainage system. Mr. Ajello noted the proposed cuts and fill would extend to within 12 feet of the septic system and that the Health Dept. had not yet reviewed the revised plan, "Site Analysis Plan," by Mr. Alex, dated March 2006. The Commission considered whether to address these two concerns with conditions of approval or to delay action on the application until the 3/29/06 Special Meeting in order to give the applicant time to address them. Mr. Neff, engineer, briefly described the curtain drain requirements around septic systems.

**MOTION:** To approve Application #IW-05-71 submitted by Mr. Brighenti to construct a tennis court at 49 Calhoun Street per the map, "Site Analysis Plan," by Mr. Alex, dated March 2006 subject to the following conditions: 1) the work area must be more clearly defined on the map to show the limit of disturbance and 2) Land Tech's 3/22/06 letter must be referred to the Health Dept. for review of the concerns raised in it. By Mr. LaMuniere, seconded

Ms. Purnell noted for the record that the tennis court had been pulled back from the wetlands since the original submission, that the proposed area of disturbance had been minimized, additional drainage had been proposed and it had been directed away from the wetlands, and the court would now be more than 150 feet from the wetlands, all of which meant there would be less chance of an adverse impact to the wetlands.

**Spring Hill Farms, LLC./69 Whittlesey Road/#IW-05-74/Reconstruct, Enlarge, Relocate Building:** The public hearing was continued to Wednesday, March 29, 2006 at 6:00 p.m.

**Kessler/103-105 West Mountain Road/#IW-06-05/Two Dwellings, Driveway Crossing, Etc.:** The public hearing was continued to Wednesday, April 12, 2006 at 6:00 p.m.

**Kleinberg/181 West Shore Road/#IW-06-07/Driveway and Utilities:** After a brief discussion it was the consensus a public hearing should be scheduled to consider this application.

**MOTION:** To schedule a public hearing to consider Application #IW-06-07 submitted by Mr. Kleinberg to install a driveway and utilities at 181 West Shore Road on Wednesday, April 12, 2006 at 5:00 p.m. in the Land Use Meeting Room, Bryan Memorial Town Hall, Washington Depot, Ct. because given the proximity to Lake Waramaug and the steepness of the slope there is a likelihood of adverse impact to the lake and it is in the public interest because this is one of the last wooded lots on Lake Waramaug. By Ms. Purnell, seconded by Mr. Bedini, and passed 5-0.

**Getnick/237 West Shore Road/#IW-06-11/Repair Retaining Wall:** Mr. Ajello read the description of the proposed work and the reviewed the 3/2/90 site plan with handwritten notes regarding the length of wall to be repaired. Mrs. D. Hill asked if a reasonable amount of material was proposed for the project. Mr. Ajello said the amounts listed were reasonable and that the work would be done by hand.

**MOTION:** To approve Application #IW-06-09 submitted by Mrs. Getnick to repair the shoreline wall at 237 West Shore Road per the plans submitted with the condition that the work be done only during a time of low water between June and September 30. By Ms. Purnell, seconded by Mr. Bedini.

A discussion followed regarding whether the repair work could be done any time of the year during low water or only during the summer months. Mr. Ajello thought the work should be allowed now so the

property could be enjoyed during the summer, while Ms. Purnell noted that instream work and work around the lake had always been approved for the summer months only so that it would not be subjective. It was the consensus that if the Commission varied the work time for this applicant, others might also ask for special dispensation. Mr. Ajello argued that if the work was done now, the vegetation would be reestablished earlier in the year. Mrs. Hill noted a motion had been made and seconded.

Vote: 5-0.

**Averill/7 Titus Road/#IW-06-10ATF/Excavation:** Mr. Ajello reported that Mr. Averill had been unable to remove the stockpiled material due to a backup at the treatment plant and also that excavation and removal of an additional foot of soil near the river was scheduled for Monday, March 27th. That soil would be tested to determine whether any more soil would have to be removed. Mr. Ajello said Mr. Averill was considering a smaller gravel parking area for undamaged vehicles only. He said pavement, slopes, curbs, etc. had been discussed, but not underlayment. Ms. Purnell suggested an underlayment of impervious geotextile fabric 6" below the surface because the parking lot would be so close to the river. Mr. Bedini suggested a curbed containment area, but Mr. Ajello noted Mr. Averill plows snow towards the river. It was the consensus that the parking area would be discussed further when Mr. Averill submits a plan with additional information. The commissioners agreed this was an after the fact application and asked that the after the fact fee be submitted.

#### New Applications

**Marbledale Pub/ New Milford Turnpike:** Mr. Ajello noted this had been included on the agenda because an application had been expected. However, no application was submitted.

**Schaffner/12 Painter Ridge Road/#IW-06-11/Swimming Pool:** Mr. Neff, engineer, briefly reviewed the application for the installation of a 16' X 32' pool and his map, "Proposed Swimming Pool Site Plan," revised to 3/20/06. Mr. Neff noted the site conditions on the lot were unusual because the wetlands boundary runs through the existing dwelling. He submitted a copy of the 7/6/88 soils report by ConnSoil. He explained the proposed site was on the west side of the house in an existing lawn area, and that the limit of disturbance would be 51 feet from the wetlands at its closest point. He noted the pool would be located in the well radius. Mr. Neff stated the pool would have a cartridge type filter and a non discharge filtration system. Ms. Purnell asked for the percentage of pools that develop leaks. Mr. Neff responded that liner pools would be more susceptible to leaks than concrete pools would be. A site inspection was scheduled for Tuesday, April 4, 2006 at 4:00 p.m. Ms. Purnell asked that the location be staked prior to the inspection.

**Linen/34-38 New Preston Hill Road/#IW-06-12/Site Grading:** Mr. Neff, engineer, presented the map, "Proposed Site Plan," dated 12/21/05. He explained most of the site development would take place outside the regulated area, but some regrading would be required for the driveway and on the east side of the house below the septic system. He pointed out the location of the existing stone wall, which would remain as a barrier between the site work and the wetlands and noted erosion and sedimentation controls would be installed downgrade of the regraded areas. Mr. Neff compared the original feasibility plan, "Proposed Site Development Plan," revised to 7/3/04 with the current plan. Ms. Purnell noted with the driveway changes proposed, the impervious surfaces would increase by approximately 50%. A site inspection was scheduled for Tuesday, April 4, 2006 at 4:44 p.m.

**Town of Washington/2 Bryan Plaza/#IW-06-13E/Plant Vegetative Buffer Around Pond:** Mr. Charles recused himself because he is a member of WEC, which would be funding the project, and had helped draft the planting plan. Mr. Ajello briefly explained the proposal to plant a buffer around the fire pond in back of the Town Hall. Plants would be obtained from NCD and planted in phases to determine how they will do in the gravelly soil before proceeding with the entire project. Ms. Purnell reviewed the plant list, noted they would be planted by hand, and objected to the proposed willow. It was the

consensus of the Commission that the willow should not be planted because it has shallow roots and the pond has an earthen embankment.

**MOTION:** To approve Application #IW-06-13E submitted by the Town of Washington to plant a vegetative buffer around the pond at 2 Bryan Plaza with the condition that the proposed willow tree not be planted. By Ms. Purnell, seconded by Mrs. Hill, and passed 4-0.

#### Enforcement

**Calhoun Street Trust/62 Calhoun Street/Unauthorized Construction:** Mrs. J. Hill noted she would assign this matter a violation number. Mr. Rosiello, landscape architect, Mr. Neff, engineer, and Mr. Munson, contractor, were present. Mr. Ajello said a planting/mitigation plan shown on a section of the "House Site Plan" had been submitted. Mrs. D. Hill noted this was shown on just a portion of the site plan and was not the comprehensive plan the Commission had requested at the last meeting. It was the consensus it would be easier to evaluate the latest proposal if all the work was shown at a larger scale on a single map of the entire property. Mr. Neff agreed to provide it. Ms. Purnell noted that new stairs next to the retaining wall were shown on the map. Mr. Rosiello said he understood any revisions had to be approved by the Commission. The mitigation plan was discussed. Mr. Rosiello said he had not yet drafted a written plan; he wanted direction first from the Commission. Mr. Munson explained he had concentrated on the mitigation plan rather than a comprehensive map because he hoped the Commission would allow the retaining walls to remain if it found the mitigation satisfactory. Ms. Purnell asked if additional walls were proposed. Mr. Neff responded they would apply for additional walls in a separate application. Mrs. D. Hill noted one condition of a previous approval for this property was a 30 ft. wide buffer around the wetlands. Mr. Rosiello proposed to increase that buffer to 50 feet. The partial site plan was reviewed and Mr. Rosiello pointed out the back area that had been planted to prevent the caretaker from working in the buffer area, the access area to the rear portion of the property, and the point where the unauthorized retaining walls were only 57 feet from the wetlands. A site inspection was scheduled for April 4, 2006 at 5:15 p.m. Mr. LaMuniere hoped the comprehensive map would be ready by that date to help the Commission evaluate the scope of the work.

#### **Beck/132 Calhoun Street/#IW-02-V1/Cutting and Clearing in Wetlands:**

Mr. Ajello reported there had been progress on resolving this matter. Mrs. Beck agreed to post a maintenance bond of \$800 to \$900 and the Commission would monitor the site for two years.

**Carter/292 Walker Brook Road (141 Shinar Mountain Road)/#IW-04-V8/ Repair of Retaining Wall:** Ms. Purnell noted she had written a draft letter and would email it to all commissioners for review before the next meeting.

**Reinhardt/10 Perkins Road and Cremona/8 Perkins Road/Clearcutting:** This pending litigation was discussed later in the meeting under Executive Session.

**Taylor/11 Sunset Lane/Unauthorized Excavation in Wetlands:** There was no new information on this matter. Mr. Ajello will send another enforcement letter.

**Pasatieri/57 Findley Road/Septic Repair Within 100 ft. of Stream:** Mr. Ajello will try to find a better map of the property and develop a more complete file on this matter.

**9 Main Street Assoc./9 Main Street/Unauthorized Construction of Stone Wall:** Mr. Johnson continues to work on the planting plan requested by the Commission.

**Peck/10 Slaughterhouse Road/Excavation, Tree Removal:** Mr. Ajello reported he had mailed the required letter to Mr. Peck to inform him the Show Cause Hearing had been conducted and the 3/1/06 enforcement order would remain in effect. Mr. Peck has hired a soil scientist who will do testing after the frost is gone.

**Averill-Titus Park Garage/7 Titus Road/Unauthorized Excavation:** Mr. Ajello noted Mr. Averill is selling his business, not the property. It was the consensus to remove this matter from Enforcement as there is a pending application. Mr. LaMuniere voiced his concern about the parking of wrecked vehicles so close to the Shepaug River. Mr. Ajello said Mr. Averill understands the Commission's concerns and is working on a plan to correct the problem.

**Moore/25 Litchfield Turnpike/Unauthorized Filling, Clearcutting:** Mr. Ajello noted this matter was addressed in his enforcement report and he circulated photos of the existing conditions on the property. He said Mr. Moore was cooperating and the clean up had begun. The commissioners requested that the wetlands be flagged before they conduct a site inspection of the property. It was the consensus that a citation should be issued immediately because work was done directly in the wetlands and that a site inspection would be conducted before deciding whether to issue an enforcement order.

**Potter/220 Old Litchfield Road/Unauthorized Clearing:** Mr. Ajello reported a notice of violation had been sent to the property owner. He said that clearing had been done within the upland review area and that he had asked that the fallen timber be left on site for erosion control. He anticipated sending an enforcement order for the replacement of vegetation with appropriate wetlands species within 100 feet of the wetlands flags. There was a general discussion regarding whether an application to Wetlands should be required in this case or in any other where the proposed site development is outside the upland review area. Ms. Purnell and Mrs. D. Hill noted the Wetlands Commission has always reviewed applications when there are wetlands on the property as it is up to the Commission, not the applicant, to determine whether it has jurisdiction. It was also noted regrading, filling, and potential impacts have always been considered by the Commission. Mr. Ajello said this would be costly and slow up the permit process for applicants. Mrs. D. Hill said it would not because the property owners could come in for a jurisdictional ruling, which would then be on record. For this particular situation, it was the consensus an application was required for the proposed site development because there are wetlands on the property and there have already been violations. Mr. Ajello was asked to send an enforcement letter regarding the clearing done in the upland review area. It was the consensus an after the fact application fee would not be required.

#### Other Business

**Washington Montessori School/240 Litchfield Turnpike/Release of Bond:** There was nothing new to report.

**Revision of the Regulations/Section 8.1:** A public hearing has been scheduled for Wednesday, April 26, 2006.

**Walker Brook Subdivision II, New Milford:** Ms. Purnell is drafting a letter to WEC to request funding for a base study of Walker Brook. She will submit the finished draft to the Commission for review. Mr. Bedini asked if the DEP would be involved in the study. Ms. Purnell said it would not because it did not have adequate staffing and remarked that she had been disappointed with the level of review by the fisheries dept.

**Allen/158 Popple Swamp Road/Single Family Dwelling:** Mrs. D. Hill had requested the site development plan be brought to the Commission for review because activities just outside the 100 ft. setback had been approved by the WEO. The map, "Proposed Site Plan," by Mr. Neff, dated 9/6/06 was reviewed. Mr. Ajello noted a map of the entire parcel had not been submitted. The commissioners reaffirmed their policy of reviewing all site development plans with activities within 200 feet of wetlands and watercourses, with Mr. LaMuniere being the one member who did not think this was necessary. Ms. Coe noted this would help make property owners aware that the Wetlands Commission takes its responsibilities seriously. Ms. Purnell pointed out that in addition to the Commission's plan review, the WEO must inspect all sites because plans are often incomplete as far as showing all

activities proposed and locating all wetlands and watercourses.

Ms. Purnell noted she had information about the impacts of road salt and sand on wetlands and watercourses and on rain gardens and would forward it to everyone to review.

The parking area for Titus Road Garage was discussed again. Mr. Bedini noted that if the parking area was paved, gas could leak through the blacktop and so a containment pad made of a particular kind of concrete should be required. Ms. Purnell also recommended a concrete lip. Mr. Bedini thought the Commission had missed this point when it acted on the Denscott application. Ms. Purnell noted that in the Depot there were many opportunities to implement added protection for the Shepaug; biofiltration basins, for example. She thought Mr. Averill should seriously study construction options for his parking lot to ensure pollutants could not seep into the ground or the river. Mr. Bedini agreed, saying that once the soil is contaminated, it is too late. He noted long term construction sites where equipment and vehicles are refueled can result in spills and contamination of sites. Ms. Purnell recommended that the Inland Wetlands Commission send a thoughtful letter to the Planning Commission to recommend it consider this issue as it works on the Depot study. Mr. Ajello suggested the Zoning Commission should be contacted, too.

MOTION: To go into Executive Session at 10:15 p.m. to discuss pending litigation. By Mrs. Hill, seconded by Ms. Purnell, and passed 5-0.

MOTION: To come out of Executive Session at 10:26 p.m. By Mrs. Hill, seconded by Mr. Thomson, and passed 5-0.

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

Mrs. Hill adjourned the meeting at 10:27 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

By Janet M. Hill, Land Use Coordinator