

April 26, 2006

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

ALTERNATE PRESENT: Ms. Coe

ALTERNATE ABSENT: Mr. Thomson

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

ALSO PRESENT: Mr. DeSantos, Atty. Cornell, Mr. Owens, Ms. Saul, Atty. Kelly, Mr. Jontos, Mr. Arturi, Mr. Lasar, Mr. Dobson, Ms. Dobson, Mr./Mrs. Wright, Mr. Neff, Mr. Bennett, Mrs. O'Malley, Ms. Smith, Mr. Watson, Mr. Wilson, Mr. Charles, Residents, Press

PUBLIC HEARINGS

Kleinberg/181 West Shore Road/#IW-06-07/Driveway and Utilities

Mr. Picton reconvened the public hearing at 5:58 p.m. and seated Members Bedini, Hill, LaMuniere, Picton, and Purnell. Mr. Picton read the 4/25/06 letter of withdrawal from Mr. Wilson to the Commission.

MOTION: To close the public hearing to consider Application #IW-06-07 submitted by Mr. Kleinberg to install a driveway and utilities at 181 West Shore Road. By Mrs. Hill, seconded by Mr. Picton, and passed 5-0.

Mr. Picton closed the hearing at 6:00 p.m.

Kessler/103-105 West Mountain Road/#IW-06-05/Two Dwellings, Wetlands Crossing, Planting, Etc.

Mr. Picton reconvened the hearing at 6:01 p.m. and seated Members Bedini, Hill, LaMuniere, Picton, and Purnell. It was noted that Mrs. Hill had listened to the tape of the 4/12 session of the hearing because she had been absent. Mr. Picton noted the documents added to the file since the last meeting.

Mr. Jontos, applicant's consultant, submitted the following new material: 1. the 4/26/06 transmittal letter from Mr. Jontos to Mr. Picton, 2. a sheet entitled, " Slope Percentage (I.E. Grade) vs. Slope Angle," by Land Tech Consultants, dated 4/24/06 to help the Commission better understand the relationship between grade percentage and slope angle, 3. "Wetland Mitigation Plan," by Land Tech, revised to 4/24/06, and 4. the 4/26/06 letter from Mr. Jontos to Mr. Picton, which responded to the articles submitted by Ms. Purnell at the last session of the hearing.

The revised mitigation plan was reviewed. Ms. Saul detailed the plans for the bioretention system and the 35 ft. wide vegetative buffer adjacent to the wetlands. She said native species would be planted by hand to enhance the understory and increase the density of the well established vegetation on the slopes and around the pond. Mr. Picton asked if it was intended that the area below the purple line shown on the map would be mowed. Ms. Saul said it would be ground cover. Ms. Purnell asked for the width of the buffers and the linear distances between the buffers and the wetlands. Mr. Jontos gave the following distances: 18 ft. at the driveway at the NW corner, 30 ft. to the S, 20 ft. to the SE, 60 ft. SE to the edge of the wetlands, 33 ft. to the edge of the pond S of the regraded area, and 55 ft. to the NE. He added the area of filtration was more than 70 ft. from the patio to the edge of the pond.

Concerning the guest house, Mr. Jontos stated both the footprint and the impervious area as well as the amount of runoff had been reduced under the proposed plan. He noted the erosion and sedimentation controls were in compliance with the 2002 Ct. E and S Guidelines. He said the steepness of the slope would be reduced and there would be no disturbance in the areas with 80% grades.

Ms. Purnell expressed her concern about the impact of the runoff in the wetlands. She said the construction was close to the slope on several sides, was perched on a knoll above the wetlands, there was a lot of work proposed in close proximity to the wetlands, and there would be long term impacts from residential use. She questioned whether the degree of the slope would negate the effectiveness of the proposed buffers. She was also concerned about non point source pollution and thermal and chemical impacts. She noted the existing house already has impacts on the wetlands and the Commission had not considered how routine maintenance and normal residential living would cause adverse impacts. Mr. Picton agreed that slopes greater than 25% are not generally effective buffers.

Mr. Neff, engineer, referred to his 4/24/06 letter to Mr. DeSantos with attached roof drainage system calculations and hydraulic computations. He noted the guest house was on a knoll where the runoff would flow in all directions so it was logical to use an underground infiltration system to effectively manage the roof runoff. He also noted that putting all of this water back into the ground was a vast improvement over the current conditions. He briefly addressed the management of the roof runoff from the main house. In case of overflow in the proposed infiltration system, he proposed a rip rapped swale with a 20 ft. wide splash pad. The splash pad and the existing stone wall would slow the velocity of the overflow before it reached the wetlands. Mr. Picton worried about siltation on the 40% slopes during storm events. Mr. Jontos noted the amount of runoff would be reduced due to the infiltration system and the vegetation proposed would aid the dispersal of the water and also increase infiltration. Mr. DeSantos asked for the flow depth of the channel and said he was concerned about erosion during any storm event greater than a 2 year storm. Mr. Neff said the splash pad would promote sheet flow so there would be less chance of erosion. Mr. DeSantos thought there was a potential for scouring of the swale.

Ms. Purnell was concerned that the bioretention system for the driveway runoff would not adequately handle pesticides, fertilizers, and nutrients and that they would impact the pond. Mr. Jontos responded that nutrients would naturally reach the pond from the runoff through the forest watershed. Ms. Purnell thought there was not enough data on whether the eutrophication of the pond was due to impacts from the existing dwelling.

Mr. Neff said he had consulted with the Health Dept. about the potential impacts of the copper hardware to be used on the roofs and was told that copper levels were not tested in potable water tests.

Mr. Owens, architect, read a statement regarding the improvements, which would be made to the existing site conditions with the implementation of the proposed plans. He noted the Commission's concern about erosion of the steep slopes and pointed out the applicant proposed to decrease the slopes on average from 41% to 32%.

Ms. Purnell noted the decrease in impervious surfaces and asked how the Commission could ensure it would remain as proposed. Mr. Owens said there were sufficient parking and passing areas proposed and the Kesslers wanted to see as much green as possible. Ms. Purnell noted the sloped area to be regraded contained the septic leaching fields and asked if there was any hesitation about running machinery over it. Mr. Owens said this was not a problem. Mr. Neff confirmed that there would be a minimum of 6 in. between the top of the units and the finished grade and that they were reinforced concrete galleys so there would be no problem. Referring to the proposed removal of the terraces, Ms. Purnell asked if additional landscaping features would be added later. Mr. Owens said there would not because the proposed plan was the worst case scenario.

Mr. Jontos asked if the Commission recorded its permits on the Land Records as most towns do. Mr. Picton said it did not, but it would consider it for complicated applications.

Mr. LaMunier noted he was not comfortable with the proposal for the reconstruction of the guest house. As long as the existing foundation would not be used, he did not see why the house could not be moved away from the fragile area and steep slopes and noted he was concerned about the potential for

a significant impact resulting from such a major undertaking. Mr. Owens said all of the short term impacts had been addressed, again reviewed some of the improvements proposed, and asked if Mr. LaMuniere thought there would be long term impacts. Mr. Jontos noted the reductions in runoff, slope, and impervious surfaces had been quantified. Mr. LaMuniere did not think the Commission could legislate for the long term, but thought short term impacts could be improved. For example, he said the Commission had to make sure the planted buffers would function as proposed. He also suggested a well be drilled in a new location so the building could be moved back. Mr. Owens said this was a compact site and the dwelling could not be moved back without encroaching on Zoning's required 50 ft. setback from wetlands.

Mr. Owens noted the applicant was eager to begin work and would consider accepting conditions of approval. Representing the Kesslers, Atty. Cornell agreed the applicants would accept some conditions of approval. He suggested they would agree to the restriction of the guest house to 2 bedrooms in perpetuity.

Mr. Picton stated it was clear the applicant was not interested in reconfiguring the houses or in relocating them, which he thought were the easiest ways to address the problems of steep slopes and adequate buffers. He said he understood the slopes would be reduced, but pointed out they were fully stable now and the work to decrease them would cause a lot of short term disturbance. He feared the disturbed slopes would wash out during storms. Mr. Picton was concerned about activities proposed on slopes over 20% and asked if the applicant would agree to redefine the work areas to exclude those slopes or agree to this as a condition of approval. He stated that from his 30 years experience as a builder he found that steeper slopes were unmanageable. Mr. Owen responded the applicant would not say no at this point, but again stated it would be better in the long term if the slopes and amount of impervious area were reduced. He asked if instead, the Commission would consider a condition that the work in these areas be done only during times of dry weather. Ms. Purnell noted if the slopes were regraded they would also be more useable for residents. Ms. Saul said the slopes would be stabilized with ground cover. Mr. DeSantos noted there were 20% slopes within 10 feet of the house on the east side. Mr. Jontos said the area in question was 70 ft. long by 20 ft. wide, that it would take only two days of work to regrade, and that an erosion control blanket would be put down. He said the area was so small that runoff from a deluge could be diverted at the top of the slope throughout the entire time the slope would be unstable. Mr. Picton favored his suggestions to keep out of the area or reconfigure the structure rather than Mr. Jontos' engineered solution.

Mr. Picton asked the same questions about the main house; could the work area be redrawn so it did not include areas with slopes exceeding 20%. Mr. Owens asked Mr. Picton if his request was because he thought it was a better practice or if he thought the proposal would be likely to have an adverse impact on the wetlands. Mr. Picton responded both applied and noted the lack of cooperation on the part of the applicant. Mr. Owens replied that Mr. Jontos could not anticipate problems because he did not understand the basis for the Commission's concerns. Mr. Picton again stated the Commission's aim was to get the proposed activities away from the edge of the steep slopes and as far from the wetlands as possible. Mr. DeSantos noted there was no reason the garage had to be sited as the applicant proposed and that it could be shifted as had Mr. Picton recommended.

Mr. Picton noted there was water flowing down along the west side of the temporary soil stockpile. He asked if it was a watercourse that was not shown on the map, but noted even if it did not qualify as a watercourse, it would be a factor in managing the site. Mr. Jontos stated it was not a watercourse. Mr. Picton asked if the stockpile could be moved out of the regulated area. Mr. Jontos suggested diverting the flow around the pile instead. Mr. Owens noted the project would be phased and the stockpile could be moved to a safer area where the main house would eventually be built.

Mrs. D. Hill asked if all the existing stone walls would remain. Mr. Owens said they would.

MOTION: To close the public hearing to consider Application #IW-06-05 submitted by Mr. Kessler to construct two dwellings, install a wetlands crossing, planting, etc. at 103-105 West Mountain Road. By Mrs. Hill, seconded by Mr. Bedini, and passed 5-0.

Mr. Picton closed the public hearing at 7:27 p.m. It was noted that according to Mr. Zizka's **What's Legally Required**, the Commission had 35 days in which to render a decision. Mr. Picton asked the commissioners to study the file and get ideas about what to include in either a motion of approval or denial to Mr. Ajello in a timely manner so that he would be able to prepare draft motions for discussion at the next meeting.

Revision of the Inland Wetlands and Watercourses Regulations/Section 8.1

Mr. Picton called the hearing to order at 7:32 p.m. and seated Members Bedini, Hill, LaMuniere, Picton, and Purnell.

Mr. Picton explained that Section 8.1 governed when the Commission shall conduct a public hearing to consider an application. He reviewed the current Section 8.1 and the proposed revised language: *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.*

The 4/5/06 letter from the state DEP was noted. It basically said the state would not review the Town's proposed revision, but sent a copy of its draft model regs for review.

There were no comments from the public and the commissioners were satisfied with the proposed revision.

MOTION: To approve revisions as proposed to Section 8.1 of the Washington Inland Wetlands and Watercourses Regulations concerning when a public hearing shall be conducted to consider an application. By Mrs. Hill, seconded by Ms. Purnell, and passed 5-0.

MOTION: To close the public hearing to consider revisions to Section 8.1 of the Washington Inland Wetlands and Watercourses Regulations. By Ms. Purnell, seconded by Mr. Picton, and passed 5-0.

Mr. Picton closed the public hearing at 7:38 p.m.

It was noted the Show Cause Hearing to consider Bennett/207 Bee Brook Road was scheduled to begin at 7:00 p.m., but since Mr. Bennett had not yet arrived, it was tabled until later in the evening.

These public hearings were recorded on tape. The tapes are on file in the Land Use Office, Bryan Memorial Town Hall, Washington Depot, Ct.

REGULAR MEETING

Mr. Picton called the meeting to order at 7:40 p.m. and seated Members Bedini, Hill, LaMuniere, Picton, and Purnell.

MOTION: To add the following subsequent business to the agenda: V. New Applications: B. Smith/35 East Shore Road/#IW-06-24/Restore Pond, Build Greenhouse, Build Garage, C. Brown/127 West Shore Road/#IW-06-25/Rebuild Retaining Wall, D. Robins/18 Winston Drive/#IW-06-26/Deck; VI. Enforcement: P. Action Taken by WEO: 1) Adams/ 136 West Shore Road/Excavation and Backfill; VII. Other Business: E. Calhoun Street Trust/ 62 Calhoun Street/Request to Revise Permit #IW-05-37/Improve Existing Drainage System, F. Shepaug Realty/46 June Road/Preliminary Discussion/Realign Driveway, G. Aquatic Pesticide Permit Application/Pinover/12 Senff Road, H. Hiring Consultant to Revise Regs and Bring Them into Compliance with DEP Model Regs; VIII. Complaint/Zelman-Oefendorf/16 Tompkins Hill Road. By Mr. Bedini, seconded by Ms. Purnell, and passed 5-0.

Consideration of the Minutes

The 4/5/06 Special Meeting minutes were accepted as corrected.

Page 3: 3 lines from bottom: Change to: ...even if the house was slightly larger than the existing, the structure and stockpile area could be moved farther from the wetlands.

Page 4: 14th line: Add: a comma and if after " asked whether....:

Page 5: 8th line under #1 in the motion: Insert: at after "including."

MOTION: To accept the 4/5/06 Special Meeting minutes as corrected. By Mr. Picton, seconded by Mr. Bedini, and passed 3-0-2. Ms. Purnell abstained because she had not yet reviewed them and Mrs. Hill abstained because she had not attended the meeting.

The 4/12/06 Regular Meeting minutes were accepted as corrected.

Page 2: Last line in 2nd paragraph from bottom: Change "base" to bank.

Page 5: 5th line: Delete "the" after "because."

8th line and throughout: Change "molt" to mold.

12th line from bottom: Correct spelling is eutrophic.

Page 6: 4th line from bottom of 2nd paragraph: Add following sentence before "Ms. Purnell....:" Mr. Picton pointed out when the limit of disturbance does extend onto these slopes.

2nd paragraph: 3rd to last line: Change: "affect" to address.

Page 7: 2nd paragraph: 5th line from bottom: Change: "he" to Mr. De Santos.

5th paragraph: End of 4th line: Delete: "...not only would the activity have to be moved 100 feet away," and Add in its place: that would be a good start.

Page 9: 8th line in motion: Correct spelling is swale.

Page 11: Last line: Change: "she" to Mrs. Wright.

Page 17: 2nd to last line: Correct spelling is lose.

MOTION: To accept the 4/12/06 Public Hearing-Regular Meeting minutes as corrected. By Mr. Bedini, seconded by Mr. Picton, and passed 4-0-1. Mrs. Hill abstained because she had not been present.

The Wright, Dobson, Adams, and Schoellkopf site inspection minutes were accepted as written except that Mr. Thomson was added as present at the 4/20 Adams site inspection.

MOTION: To accept the 4 Site Inspection minutes: Wright, Dobson, Adams, and Schoellkopf. By Mr. Picton, seconded by Mrs. Hill, and passed 5-0.

Pending Applications

Kessler/103-105 West Mountain Road/#IW-06-05/Two Dwellings, Wetlands Crossing, Planting, Etc: Mr. Picton again urged the commissioners to study the file and to get their comments into Mr. Ajello as soon as possible. Reasons for both approval and denial will be considered.

Kleinberg/181 West Shore Road/#IW-06-07/Driveway and Utilities: This application was withdrawn.

Potter/220 Old Litchfield Road/#IW-06-14/Site Development: Mr. Ajello noted the site development plan that he had requested had not yet been submitted. Mr. Picton asked Mr. Ajello to contact the applicant again to request the map. If it is not submitted, the Commission will have to deny the

application. It was noted there is no work on site being done now.

Adams/57 West Shore Road/#IW-06-15/Retaining Wall, Stairs, Path, Plantings: It was noted the applicant was asked to submit additional information regarding the proposed fill and the proposed stone wall. No new information had been submitted. There was a discussion regarding whether there was sufficient documentation in the file to act on the application. Upon review of the material, several questions were raised including; was there an easement for the work along the roadway, would the existing fence be removed, whether one or two stone walls would be built, whether one of those walls would be stone or a continuation of the concrete wall, and whether the lower wall would be above or below the high water level of the lake. It was also noted that Ms. Dzenutis, who spoke on behalf of the applicant at the last meeting, was not authorized to do so.

Dobson/255 New Milford Turnpike/#IW-06-16/Accessory Building: Mr. Dobson presented the revised site plan, "Property/Boundary Survey," by Mr. Cheney, dated May 2000 and revised to April 2006 to show wetlands flagged by Mr. Temple. He proposed the building be located 55 ft. from the rear boundary line in order to keep as much of the existing parking area as possible. Mr. Picton asked if the building could be moved 20 ft. further from the wetlands to leave room for equipment during construction, noting a 40 ft. wide parking area would remain in front of it. Mr. Dobson said the building would be built on a slab, it would have no drain, there would be no outside storage in back of the building, and the excavated material would be taken off site. Ms. Purnell noted the Commission has consistently required new construction to be at least 70 feet from wetlands and Mr. Dobson agreed to move the building location so that no part of the structure would be closer than 70 feet.

MOTION: To approve Application #IW-06-16 submitted by Mr. Dobson for an accessory building at 255 New Milford Turnpike per the hand drawn specifications on the map, "Property/Boundary Survey," by Mr. Cheney, dated May 2000 subject to the following conditions: 1) that no point of the proposed building may be any closer than 70 ft. to the wetlands as indicated on the above referenced map and 2) that the map be revised to show the approved building location and submitted to the file. By Ms. Purnell, seconded by Mr. LaMuniere, and passed 5-0.

Lederer/274 Nettleton Hollow Road/#IW-06-17/Demolish Greenhouse, Fill to Grade: Ms. Zinick represented the applicant. The untitled map revised to 3/24/86 with the location of the greenhouse and silt fence drawn in by hand was reviewed. Mr. Picton noted all of the Commission's questions had been answered at the last meeting.

MOTION: To approve Application #IW-06-17 submitted by Mr. Lederer to demolish a greenhouse and fill to grade at 274 Nettleton Hollow Road. By Mr. Picton, seconded by Ms. Purnell, passed 5-0.

Swanson/282 New Milford Turnpike/#IW-06-18/Dry Hydrant: Mr. Ajello said he had inspected the site and found the pond where the hydrant was proposed was surrounded by lawn. He said this was a standard application, the installation would take half a day, and in the future the pond would need to be cleaned out. Ms. Purnell asked where the pipes would be located. Mr. Ajello said they would be in the existing roadbed. Mr. Picton noted there were no particular erosion hazards. Ms. Purnell noted the hydrant was a matter of public safety.

MOTION: To approve Application #IW-06-18 submitted by Mr. Swanson to install a dry hydrant at 282 New Milford Turnpike. By Ms. Purnell, seconded by Mr. LaMuniere, and passed 5-0.

Schoellkopf/300 Nettleton Hollow Road/#IW-06-20/Deer Fence: Mr. Sabin, landscape architect, represented the owner. He submitted a revised site plan, "Schoellkopf Deer Fence, Revised Layout," dated 4/25/06, which he said, formalized the comments made by the Commission at the site inspection. He pointed out the two intermittent watercourses at the eastern end of the property and said the fence would no longer enclose them. He had instead followed the existing electric horse fence, which

reduced the length of the proposed fence by approximately 900 ft. Mr. LaMuniere asked how the stream crossings would be handled. The plan, "Sketch Detail at Crossing," dated 4/26/06 was reviewed. Mr. Sabin noted there would be 2 ft. of clearance above the water so debris would not collect, but it would not be high enough so that deer could swim under the fence. Mr. LaMuniere noted the crossing would have to be maintained after each storm event. Mr. Picton thought the fence stream crossing would obstruct the stream, collect trash, divert the wildlife corridor, and unnecessarily change the character of the wetlands by altering the natural relationship of the wildlife and the stream. He suggested the alternative of fencing in only the garden area. Ms. Purnell said she appreciated the reduction in the proposal and noted the property is currently a maintained landscape, Sprain Brook is the only natural feature in the area, and the property would be maintained in perpetuity. Mr. Sabin asked Mr. Picton to read the literature he had submitted on this historic garden. Mr. Bedini asked if a weighted flexible cable wire not attached to the bottom of the stream could be used. Mr. Sabin said he was trying to attach the fence to granite. Regarding the Commission's reluctance to permit fencing in vast areas with deer fence, Mr. LaMuniere and Ms. Purnell thought there was a reason for an exception in this case as the entire landscape was an integral part of the entire public garden. While she agreed this was a unique garden, Ms. Coe did not like to see the deer fence divide the wetland corridor and asked why, after 20 years, the fence was now needed. Mr. Sabin said the deer had gotten worse. Mr. Bedini asked if a non toxic chemical spray applied once a week would be effective. Mr. Sabin said that would affect the horses on the property. Mr. Picton asked if Mr. Sabin had consulted Mr. Childs. He said he had not been able to reach him. A decision was put off until the next meeting.

Wodtke/155 West Shore Road/#IW-06-21/Dock Anchors: Mr. Lasar, architect, represented the applicant. The plans, "Site Plan and Details for Proposed Dock, Wodtke Residence," by Mr. Lasar, dated 4/11/06 were reviewed. Mr. Lasar said the owner wanted to add the repair of the existing 40 ft. retaining wall to the application. He said the wall would be taken apart as far down as necessary and then dry layed with mortar used in the back of the wall. He noted nothing below water level would be rebuilt. Mr. Ajello said this would not be a major project; all work would be done by hand, fill would be required in back of the wall and the disturbed area would have to be top dressed, seeded, and mulched. Ms. Purnell asked for a specific description of the work to be done, which should include statements that only the existing stones on site would be used and where the temporary stockpile area would be located. She asked if any erosion and sedimentation controls were proposed. Mr. Ajello said when the lake level was low, the work could be done without standing in water. Mr. Lasar took the application to amend so action could be taken later in the meeting.

Bent/60 Hinkle Road/#IW-06-22 Dry Hydrant: Mr. Ajello noted the pond was close to the road, there would be no access problem, and the application was complete. He briefly summarized the proposal. Mr. Picton noted the Commission should always specify the work area should be restored to its previous grade. Ms. Purnell asked what maintenance would be required. Mr. Ajello stated a truck would have to blow out the line to unclog it from time to time. Ms. Purnell noted this was a standard hydrant installation that would have limited impact.

MOTION: To approve Application #IW-06-22 submitted by Mr. Bent to install a dry hydrant at 60 Hinkle Road subject to the condition that the site be restored to its previous grade upon completion of the work. By Mr. Picton, seconded by Ms. Purnell, and passed 5-0.

O'Malley/9 Mallory Brook Road/#IW-06-23/Remodel Guest House, Patio: Mr. Picton asked Mrs. O'Malley if all the proposed hard landscaping was shown on the site plan as requested. Mr. Ajello noted the addition to the guest house was no longer proposed; it would be rebuilt on the existing footprint. Mr. Picton asked if the patio would also be rebuilt. Mrs. O'Malley said the brick would be taken up and replaced with stone. Mr. Picton noted there were no plans for the patio. Mr. Ajello said it would be rebuilt to the same dimensions and Mrs. O'Malley amended and initialed the application. Mr. Picton

asked what would be done with the excavated material. Mr. Ajello said it would be trucked off site. Ms. Purnell noted all work would be done within the established footprint and erosion and sedimentation controls were proposed.

MOTION: To approve Application #IW-06-23 submitted by Mr. O'Malley to remodel the guest house and replace the patio at 9 Mallory Brook Road per the 4/1/06 site plans and "Protection of Wetlands Measures," revised to 4/26/06. By Ms. Purnell, seconded by Mr. LaMuniere, and passed 5-0.

SHOW CAUSE HEARING

Bennett/207 Bee Brook Road/Violation of Permit #IW-05-55/Unauthorized Demolition

Mr. Picton convened the show cause hearing at 9:05 p.m. and seated Members Bedini, Hill, LaMuniere, Picton, and Purnell. Mr. Bennett was present. Mr. Ajello noted the purpose of the hearing was to give Mr. Bennett the opportunity to contest the 4/17/06 cease and desist order.

Mr. Picton explained Permit #IW-05-55 had been approved for an addition on the side of the existing structure farthest from the stream, but in fact, the structure had been totally demolished and was now being rebuilt. Mr. Bennett said he had not intended to demolish the entire building, but when work was in progress the carrying beam broke and was not secure to the foundation. He said the Building Official had inspected the building and had approved the work being done. He noted there had been no wetlands impacts and silt fence had been up. He also said the disturbed area had been seeded and grass would be up in two weeks.

Mr. Ajello circulated the 4/26/06 WEO report.

Ms. Purnell noted there was a huge stockpile of material by the stream. Mr. Bennett said it had been removed and the area cleaned up.

Mr. Picton asked if there were any changes to the approved plan. Mr. Bennett said, no, the house would be rebuilt according to the approved plan. Mr. Picton asked Mr. Ajello to continue to monitor the project.

Mr. Bennett offered to plant additional vegetation and to remove the old shed by the streambank for mitigation.

Mr. Bennett was advised the hearing would be closed and discussion would continue at the meeting.

MOTION: To close the Show Cause Hearing regarding the 4/17/06 Cease and Desist Order issued to Mr. Bennett for the unauthorized demolition of the dwelling at 207 Bee Brook Road. By Ms. Purnell, seconded by Mr. Bedini, passed 5-0.

Mr. Picton closed the show cause hearing at 9:12 p.m.

REGULAR MEETING

Bennett/207 Bee Brook Road/Violation of Permit #IW-05-55/Unauthorized Demolition: Mr. Picton said the Commission would acknowledge that the demolition had occurred due to unforeseen circumstances and would accept Mr. Bennett's offer to remove the shed. Mr. Bennett was advised to mulch the area when the shed is taken down and to obtain a demolition permit from the Building Department. Mr. Bennett said he would put in additional plants in the future when he had funds available.

MOTION: To rescind the 4/17/06 Cease and Desist order issued to Mr. Bennett for the unauthorized demolition of the dwelling at 207 Bee Brook Road, to allow him to proceed with the construction, and to accept his offer to remove the shed as mitigation and to improve the conditions along the brook. By Mr. Picton, seconded by Mr. Bedini, and passed 5-0.

New Applications

Washington Club, Inc./8 Golf Course Road/#IW-06-24ATF/Utility Trench:

Ms. Purnell disqualified herself because she is a member of the Club and Alternate Coe was seated. Mr. Arturi and Mr. Underwood represented the applicant. Mr. Picton reviewed the application form and read the 4/26/06 WEO report regarding the after the fact work. Mr. Underwood pointed out the location of the new electrical trench to the maintenance building and the wetlands boundary on the site plan. Mr. Arturi explained the contractor installed the trench in the wrong location and that was the reason for the after the fact application. Mrs. D. Hill noted the \$60 ATF fee and the \$30 state tax were still due. Mr. LaMuniere said he did not think there had been an adverse impact to the wetlands caused by the unauthorized work. Mr. Ajello will inspect the site and report back at the next meeting.

Ms. Purnell was reseated.

Wodtke/155 West Shore Road/#IW-06-21/Dock Anchors, Repair Retaining Wall: Mr. Lasar noted he had amended the plans to add all of the Commission's comments made earlier in the meeting. Mr. Picton read the added notes. Ms. Purnell reminded Mr. Ajello to photograph the wall prior to the start of work.

MOTION: To approve Application #IW-06-21 submitted by Mr. Wodtke to install dock anchors and repair the retaining wall at 155 West Shore Road per the 10/03 site plan by Mr. Lasar as amended at the 4/26/06 meeting with the condition that the stone wall be reconstructed in the same location to the same height, width, and thickness. By Mr. Picton, seconded by Mrs. Hill, and passed 5-0.

Enforcement

Calhoun Street Trust/62 Calhoun Street/Unauthorized Construction: Mr. Munson, contractor, Mr. Rosiello, landscape architect, and Mr. Neff, engineer, were present. Mr. Neff submitted the as-built map, "Property/Boundary Survey," by Mr. Alex, revised to 4/26/06 and advised the Commission the comprehensive site plan requested by the Commission was not yet completed. Mr. Picton asked that Mr. Neff include on the map what had actually been approved so it could be compared with the actual work done. He said the Commission had to know how the work actually deviated from the permits granted and what the resulting impacts were. Ms. Purnell noted grade changes like those relating to the wing walls should also be indicated on the map. Mr. Picton asked the limit of disturbance lines, actual and approved, also be shown so they can be compared. He suggested the applicant submit a proposal to more permanently protect the wetlands environment. Ms. Purnell noted this should include permission for the Enforcement Officer to make site inspections to monitor compliance with the permits granted. Mr. Picton suggested permanent markers be installed to define the areas where there would be enhanced protection. Mr. Rosiello said he was also working on an additional mitigation planting plan. Mr. Picton advised him that this should reinforce the comprehensive protection of the wetlands and wetlands buffer enhancement and that allowing some areas to grow back naturally would be important, too. Ms. Purnell asked that all the documentation be submitted together as the piecemeal information that had been coming in was difficult to effectively analyze.

Wright/59 Scofield Hill Road/Unauthorized Filling, Clearing, Soil Disturbance: Mr. Bedini's site inspection report and map, the definition of "watercourse," and photos taken by Mr. Ajello and Mr. Thomson were circulated. After a lengthy discussion, it was the consensus that this was a watercourse, although not pristine, and that Mr. Wright should not be permitted to fill it because that narrows the channel and causes downstream impacts. It was thought that he should remove all of the woody debris, trash, boulders, and other obstructions that he had deposited. The matter was further complicated because the watercourse was not on Mr. Wright's property and Mr. Wright claimed the roadside would have eroded away if he had not deposited fill in the trench. Mr. Picton recommended the Town consult

with an engineer to make sure the channel was stabilized and the runoff safely discharged. Ms. Purnell suggested the Commission provide guidance to the road crew regarding how to stabilize the channel without further digging a ditch or installing a pipe. It was thought the best solution would be bioengineered such as the restoration of the vegetated slope. Mr. Picton made it clear there could be no additional work in the watercourse by the Wrights and said the minutes and a letter would be sent to the Board of Selectmen. The method for stabilizing the channel would be decided on by the Commission and Board of Selectmen perhaps with input from an engineer paid for by the Wrights. It was noted it was important to leave the understory and mulch on the hillsides. There was a discussion regarding whether a citation should be issued to the Wrights. Mr. Wright noted last year the Town had installed a culvert on Scofield Hill Road without a permit and that it was clearing along wetlands on Baldwin Hill without a permit. Mr. Picton stated the Town could maintain drainage facilities without a permit, but Mr. Wright had worked on Town property without permits. Mr. Ajello was asked to issue a restoration order and to discuss this matter with the First Selectman. Mr. Picton urged the Town to consult with an engineer so that an armoured open swale would not be installed and he thanked Mr. Bedini for all of his research.

MOTION: To issue a citation and a fine to Mr. and Mrs. Wright/59 Scofield Hill Road for unauthorized filling of a watercourse and clearing. By Mr. Picton, seconded by Ms. Purnell, and passed 4-0-1. Ms. Purnell abstained because she did not think this was consistent with the Commission's past policy.

New Applications

Smith/35 East Shore Road/#IW-06-24/Restore Pond, Build Greenhouse, Build Garage: Mrs. Smith, Mr. Watson, and Mr. Neff, engineer, were present. Mrs. Smith presented a board mounted map and sketches and Mr. Neff reviewed the map "Hatchery Area Restoration Plan," by Mr. Neff, dated 4/26/06. Mrs. Smith briefly explained the proposals. 1) The first was to clean out the existing pond, repair the wall on the southeast side of the pond, and plant native vegetation as recommended by the NW Conservation district. Mr. Neff explained the base of the wall was in good shape. The applicant would excavate behind the wall and pull the stones back away from the river. He noted it would not be necessary to reline the pond. 2) The existing barbeque area would be covered and a greenhouse built. The foundation of the former cider mill would be used. Mr. Picton asked Mrs. Smith to draw this on the map and to describe all the work to be done on the application form. 3) Also, a garage was proposed on an existing foundation. Again, Mr. Picton asked that the location be shown on the map and the distances from wetlands, watercourses, and boundary lines specified. He asked that the limit of disturbance and the limit of clearing also be indicated. A site inspection was scheduled for Tuesday, May 2, 2006 at 4:00 p.m.

Brown/127 West Shore Road/#IW-06-25/Rebuild Retaining Wall: The map, "Site Plan," by Mr. Wilson, dated 4/12/06 was reviewed. Mr. Wilson, engineer, briefly explained the wall would be rebuilt in 50 ft. sections. The ground would be excavated behind the wall, the wall would be dry laid down to roughly water level, geotextile fabric would be installed behind the new wall, and then it would be backfilled with stone. He submitted photos of the existing wall, showing how it had fallen back due to the erosion behind it. Also, the application called for the replacement of the concrete anchors for the docks, which were not being applied for at this time. Mr. Picton asked Mr. Ajello to review the application for completeness. A site inspection was scheduled for Tuesday, May 2, 2006 at 4:45 p.m.

Other Business

Calhoun Street Trust/62 Calhoun Street/Request to Amend Permit #IW-05-37 Improve Existing Drainage System: Mr. Rosiello, landscape architect, Mr. Munson, contractor, and Mr. Neff, engineer, were present. Mr. Rosiello pointed out on the site plan where water overflows the brook during storm events and the locations of the driveway culverts that were damaged in recent storms. He proposed the

installation of a berm in the wetlands to keep the water in the stream. Mr. Neff pointed out that the damaged pipes were not adequately sized to handle the storm runoff. Mr. Picton did not think the pond should have been placed where it was since it was in the natural path of the brook overflow. Mr. Rosiello responded there had been a problem with the driveway washing out even before the pond was dug. Mr. Picton suggested perhaps a gutter with a cross culvert could be installed along the driveway so that no work in the wetlands would be necessary. Mr. Munson noted the headwalls had been breached on the underpass and they would blow out in the next storm. Ms. Purnell voiced concern about the cumulative downstream impacts. A site inspection was scheduled for Tuesday, May 2, 2006 at 5:15 p.m. Mr. Picton thought the proposed activity should be considered a new application. Mr. Rosiello asked if the silt on the driveway could be dug out and new processed material deposited. Mr. Picton thought this could be done under Mr. Ajello's supervision as long as the work did not exceed that of a maintenance activity.

Zelman-Oefendorf/16 Tompkins Hill Road/Complaint Re: Ongoing Activities: Mr. Charles complained there had been ongoing work on the property for two years without wetlands permits. Mr. Ajello said he was aware of the

work being done, but there had been no impact to the wetlands, and he was waiting for the contractor to submit a comprehensive plan with flagged wetlands. He noted the two major projects were the reconstruction of the barn and installation of a trench. Ms. Purnell said she had seen the site and was surprised at the extent of the work done. Mr. Picton advised Mr. Ajello that any activity within 100 feet of wetlands requires a permit. Ms. Purnell noted that even though the barn reconstruction was further than 100 ft. from the wetlands, the associated excavation and filling was within the upland review area. Mr. Picton asked Mr. Ajello to stop all further work until an Inland Wetlands permit is obtained.

Enforcement

Carter/292 Walker Brook Road (141 Shinar Mt. Rd.)/#IW-04-V8/Repair of Retaining Wall: Ms. Purnell noted she had not yet emailed the draft letter to all commissioners. Mrs. D. Hill stated the Commission's concern was noted in the record and she did not know what could be gained by pursuing the matter at this late date. Ms. Purnell said she was concerned with the possible liability of the Commission.

Reinhardt/10 Perkins Road/Unauthorized Clearcutting: Atty. Kelly did not send a letter on this matter as he indicated he would at the last meeting. Mr. Ajello noted he had received a letter from Ms. Dohn, down grade property owner, who wrote that several down grade property owners have experienced water problems since the cutting took place on the Reinhardt property and were considering a law suit. Ms. Purnell noted the log and brush piles still on the Reinhardt property were serving as erosion and sedimentation barriers.

Taylor/11 Sunset Lane/Unauthorized Excavation: The information requested had not been submitted.

Pasatieri/57 Findley Road/Septic Repair Within 100 Ft. of Stream: Mr. Ajello said he had copied all the information in the Health Dept. file for the Wetlands file.

9 Main Street Assoc./9 Main St./Unauthorized Construction of Stone Wall: The information requested had not been submitted. Mr. Picton noted Mr. Johnson had been told that the areas within 50 ft. of the stream should remain natural. Ms. Purnell suggested that due to the steep slope, the natural vegetation should be kept for more than 50 feet of the stream. Mr. Ajello was asked to call Mr. Johnson.

Peck/10 Slaughterhouse Road/Unauthorized Excavation, Tree Removal: Mr. Ajello advised the Commission that Mr. Peck had hired a soil scientist and was waiting for him to map the wetlands on the property. Mr. Picton noted the entire area above the house had been wiped clear of leaf litter and

vegetation. Mr. Ajello was asked to contact the owner.

Moore/25 Litchfield Turnpike/Unauthorized Filling, Clear Cutting: Mr. Moore is waiting for the soil scientist he hired to map the wetlands on the property. It was noted the Commission had decided to wait for the mapping to be complete before conducting a site inspection of the property.

Caco/16 Flirtation Avenue/Unauthorized Clearing, Grading: Mr. Ajello said prior to the 4/12/06 meeting he had sent the property owner a letter regarding the runoff from this property impacting off site downstream wetlands. He suspected the Cacos had diverted runoff, drilled a well, or did some other work that resulted in the downstream impacts. The commissioners will make drive by inspections prior to the next meeting.

Collins/323 West Shore Road/Unauthorized Clearing in Wetlands: Mr. Ajello noted there had been severe cutting of the understory and use of equipment in the wetlands and recommended a citation. He also stated the notice of violation sent to the property owner had been sent back as undeliverable. It was the consensus of the Commission to send the notice of violation again and to issue a citation.

McTiernan/52 Calhoun Street/Unauthorized Clearing: Mr. Ajello read the 4/20/06 letter from Mr. McTiernan. Mr. Picton asked for information on the nature of the clearing; was it the maintenance of an old field or new cutting, what type of vegetation had been removed, what was the extent of the cutting, etc. and also asked Mr. Ajello to recommend how to remedy the situation. Mrs. D. Hill noted the vegetation along the shoreline had also been cleared and Ms. Coe stated a buffer should be reestablished around the pond. It was the consensus the citation was justified. Mr. Picton asked Mr. Ajello to send an order to restore. A site inspection was scheduled for Tuesday, May 2, 2006 at 5:30 p.m.

Other Business

Washington Montessori School/240 Litchfield Turnpike/Request for Release of Bond: There was no new information at this time.

Walker Brook Subdivision II, New Milford: Ms. Purnell noted the N. Milford IWC would vote on the application tomorrow night. She will continue to work with the Planning Commission on a revised letter to the N. Milford Planning Commission to voice concerns about the application.

Administrative Meeting: Mr. Picton recommended an administrative meeting to clarify how the Commission conducts its business. He suggested, for example, that applicants might be encouraged to come in for preliminary advice. Ms. Purnell noted public hearings should be held to take in information, and voiced her concern that the commissioners conduct too many discussions at those hearings. However, she did note that when the Commission discusses feasible and prudent alternatives, applicants should not be surprised that their applications are denied if they make no changes to their plans. A meeting date of Wednesday, May 17 was set, but neither the time nor the place was decided. The commissioners were asked to make lists of topics they think should be addressed.

Revision of the Regulations: Mr. Picton recommended that a consultant be hired to update the Regulations. Mr. Ajello pointed out this would be very expensive, but Mrs. D. Hill noted the Commission has no time to work on it itself. Ms. Purnell thought the revision of the Regs should wait until the DEP model regs were completed.

Shepaug Realty/June Road: Mr. Ajello said neighbors have complained about the runoff from this driveway. The owner has approached the Selectmen's Office re: realigning the driveway and moving the entrance 50 ft. south to reduce the grade. This would require Inland Wetlands approval. Mr. Ajello will inspect the site to determine whether the work done was in compliance with the permit previously issued before a new application is submitted. A related problem, said Mr. Ajello, was a lakeside parking

area the owner constructed on East Shore Road and the installation of stairs and docks on the lake shore. He will research to find out when they were built and try to find photos of the shore.

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

Mr. Picton adjourned the meeting at 11:30 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill

Land Use Coordinator