

## October 11, 2006

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

MEMBER ABSENT: Mr. LaMuniere

ALTERNATES PRESENT: Mr. Potter, Mr. Thomson

ALTERNATE ABSENT: Ms. Coe

STAFF PRESENT: Mr. Ajello, Mrs. Hill

ALSO PRESENT: Mr. Johnson, Mrs. Smith, Mr. Watson, Mr. Foss, Mr. Wilson, Mr. Moore, Mr. Sears, Mr. Boling, Mr. Gentile, Mr. Frank, Mr. McGowan, Mr. Branson

Mr. Picton called the meeting to order at 7:07 p.m. and seated Members Bedini, Hill, Picton, and Purnell and Alternate Thomson for Mr. LaMuniere.

MOTION: To add subsequent business not already posted on the agenda: V. New Applications: Melahn/67 River Road/#IW-06-50/Well and Water Line, B. Brown/125 Shearer Road/ #IW-06-51/Timber Harvest, and C. Ribadenera/ 79 South Street/#IW-06-52/Repair Pond Overflow Pipe and VII. Other Business: Town of Washington/East Shore Road/ Preliminary Discussion re: Boat Ramp, B. Myfield, LLC./7 Mygatt Road/Request to Amend Deed Restrictions, and C. Gentile/38 Winston Drive/Request to Amend Permit #IW-06-68/ Deposit Soil, Construct Retaining Wall. By Ms. Purnell, seconded by Mr. Bedini, and passed 5-0.

Consideration of the Minutes

The 9/27/06 Regular Meeting minutes were accepted as corrected.

Page 3: 12th line under Rising: Should be: ...tri-axes would back up to the hill....

Page 5: 11 lines from bottom: Delete "soil" to read, wetlands scientist.

Page 6: 6th line: Change DEP to NCD.

4th line under Eaton-Carroll: Change step to are stepped.

Page 9: Under Revision of the Regulations: 1) The end of the last sentence should be changed to: ...and any revisions should be reviewed by the state DEP staff.

2) Mr. Picton pointed out his proposed revision was just one of a number of possible revisions.

MOTION: To accept the 9/27/06 Regular Meeting minutes as corrected. By Ms. Purnell, seconded by Mr. Bedini, and passed 5-0.

The 10/3/06 Gentile site inspection minutes were accepted as corrected. 1) The date of the Regular Meeting should be 10/11, not 10/18. 2) The date of the site inspection should be 10/3.

MOTION: To accept the 10/3/06 Gentile site inspection minutes as corrected. By Mrs. Hill, seconded by Ms. Purnell, and passed 5-0.

MOTION: To accept the 10/10/06 Moore site inspection minutes as written. By Mr. Bedini, seconded by Mrs. Hill, and passed 5-0.

Pending Applications

**Eaton-Carroll/284 West Shore Road/#IW-06-45/Rebuild Lake Wall:** Mr. Johnson, contractor, reported the property owners would not consider stepping the wall back as had been suggested by the Commission. The drainage system for the roof runoff was discussed. The Commission did not support

the proposed overflow pipe, which would empty directly into the lake. It was agreed the infiltration system would have stone up to grade and that any overflow would run over the grass to the corner of the site. This would allow the water to spread out and infiltrate prior to reaching the lake. Mr. Picton asked if adequate erosion control measures had been proposed. Mr. Ajello said, yes, and pointed out that only 25 ft. of the wall would be worked on at a time. Mr. Picton asked that the repair of the wall be done when the water level was low.

MOTION: To approve Application #IW-06-45 submitted by Eaton and Carroll to rebuild the lake wall on the south side of the dock stairs on its current footprint to its prior configuration as to size and height and to approve the roof water infiltration basin, but not the overflow pipe to the lake at 284 West Shore Road. By Mr. Picton, seconded by Mr. Bedini, and passed 5-0.

**Rising/191 West Shore Road/#IW-06-46/Repair Septic System:** The Commissioners read the undated letter from Mr. Rising and the 10/11/06 letter from Ms. Von Holt, Town Sanitarian, which stated there was no alternate location or type of leaching system that would be better suited for the property and that the State DPH would not review the application because the site was not complicated and the proposed system complied with the state regulations. Mr. Ajello noted that contrary to Mr. Rising's claim, the Inland Wetlands Commission had not approved the septic design in 2001. Mr. Picton asked him to research the old files to make sure this was so. Ms. Purnell suggested the applicant be asked to provide a copy of the permit. Mr. Picton thought the estimated \$1600 consultant's fee to review this application was high and asked Mr. Ajello for a list of other engineers that could be considered. Mr. Ajello said there was no other suitable location for the septic and thought it would be best to complete the project and stabilize the disturbed areas as soon as possible. Mr. Picton disagreed, saying the work should wait for the growing season. Mr. Potter suggested a mat be placed over the disturbed areas for the winter. Documents in the previous file from 2000 were reviewed. The map, "Plan Showing Code Complying Septic System," by Mr. Trottier, revised to 9/7/06 was reviewed. It was the consensus that option #2 in Mr. Rising's letter, installation of a new tank only and the planting of trees at the top of the steep slope could be approved at this time. The Commission will try to find another engineer to review the plan and to determine whether there is an alternative system to handle the effluent that would provide more protection for the wetlands and watercourses. Ms. Purnell stated pilot septic plans are sometimes approved by the state on a case by case basis, so she thought this should be looked into. It was noted, while the repair work was needed, this was not an emergency situation.

MOTION: Regarding Application #IW-06-46 submitted by Mrs. Rising to repair the septic system at 191 West Shore Road, to approve option #2 listed in the undated letter from the Risings to the Commission to 1) install a new septic tank and 2) plant trees at the edges of the septic system, but to defer the elimination of the soil stockpile and the proposed work on the leaching field and to leave that soil surface undisturbed until the Commission receives a review from a consultant on the proposed septic system design and wetlands related work. By Mr. Picton, seconded by Mr. Bedini, and passed 5-0.

It was noted this was a partial approval only and that the remainder of the application was still pending.

**Smith/135 East Shore Road/#IW-06-48/Hatchery Restoration and Buffer Garden:** Mrs. Smith and Mr. Watson were present. Mr. Ajello referred to Mrs. Corrigan's 10/10/06 report, which found it was unlikely the trout pond functioned as a vernal pool. Ms. Purnell suggested that the material excavated from the pond should be bagged and taken off site to prevent the spread of invasive species. Mrs. Smith agreed not to deposit the excavated material elsewhere on her property. The map, "Hatchery Area Restoration Plan," by Mr. Neff, revised to 9/26/06 was reviewed. Mr. Picton asked whether a qualified professional had commented on the plans to deposit fill in an area that occasionally floods. Hearing this had not been done, he noted this was a question that had to be addressed. He also asked that the

construction route be drawn on the map. There was a discussion regarding whether the applicant had to have the wetlands soils flagged by a soil scientist as the Commission had previously requested. Mr. Watson explained there was only one appropriate location for the construction equipment to enter and exit because other locations would require that trees be cut. Mr. Picton asked that the construction access be identified and detailed specs for keeping it stable submitted. In response to a question from Ms. Purnell, Mrs. Smith stated none of the stone walls would be taken down to accommodate the construction equipment, but a ramp would be built at one end of the wall. Mr. Picton asked that routing the access through the enclosed courtyards where regrading is already proposed be compared with installing the access across seasonal streams on the hillside. Mr. Ajello noted the application did not specify the intermittent streams would be crossed. Additional information/ documentation required included: 1) a list of the machinery to be used, 2) provisions for hardening the stream, if any, 3) a thoughtful description of how the equipment will access the pond (on the map it states walls will be taken down, but the applicant stated this was not so at the meeting), 4) what protective measures would be taken, 5) duration of construction and 6) regarding the access, what was the route, what types of equipment would be used, how many trips would be made during the construction process. It was the consensus that the wetlands soils would not have to be flagged. Mr. Picton suggested the area that floods should be left alone. Mrs. Smith explained the goal was to repair the wall, put filter fabric behind it, and regrade to relieve the pressure. She agreed not to fill the area if she could pull the wall back, insert the fabric, and restore it to its previous grade. Mr. Picton asked that all this be added to the plans, including to what extent regrading would be done north of the wetlands. Possible granite work in this area was discussed. Mr. Picton thought granite blocks would tend to block the passage of water, but Ms. Purnell thought water would flow through if the blocks were not mortared. Ms. Purnell also noted the capacity of the pond would increase when it was dredged and so thought flooding would not be so much of a problem. Mr. Picton also asked for details on how much silt would be taken from the pond. Mr. Ajello was asked to study the file before the next meeting.

**Lecher/23 New Preston Hill Road/#IW-06-49/House, Septic, Driveway, Utilities:** Mr. Picton noted all the questions raised at the last meeting had been addressed. The map, "Proposed Site Development Plan," by Mr. Neff, revised to 10/10/06 was reviewed. Mr. Ajello noted the Commission had asked that the limit of disturbance line and the notes from the IW-05-03 approval be added to the map and said this had been done.

MOTION: To approve Application #IW-06-49 submitted by Andrew Lecher, Inc. for a house, driveway, septic system, and utilities at 23 New Preston Hill Road. By Ms. Purnell, seconded by Mrs. Hill, and passed 5-0.

New Applications

**Melahn/67 River Road/#IW-06-50/Well and Water Line:** Mrs. Hill recused herself because she is an adjoining property owner and Mr. Potter was seated. Mr. Foss, contractor, reviewed the map, "Property Survey for Alison Melahn," by Mr. Osborne, dated 8/25/06 on which the location of the well and water line were drawn in by hand. Mr. Foss explained the well site would be accessed through the Holden property and the trench for the water line would be open for only a few hours. Ms. Purnell asked if there would be impacts to other properties. Mr. Foss said there would not because the Holden driveway was close by. Mr. Ajello noted there would be a hay bale barrier around the well to contain the backwater. It was the consensus a site inspection was not needed. Mr. Picton asked Mr. Ajello to review the file for the proper documentation.

Mrs. Hill was reseated.

**Brown/125 Shearer Road/#IW-06-51/Timber Harvest:** Mr. Branson, contractor, noted that 4 acres had been cleared previously and that Steep Rock holds a conservation easement on a portion of the

property. The map, "Proposed Site Plan," no signature, no date, on which Mr. Branson had drawn in the 3.5 acre harvest area, skid roads, and landing area was reviewed. He pointed out the location of the nearby stream channel and said the management plan proposed would clean out the diseased ash trees and regenerate the forest near the streambed. Mr. Branson stressed that stabilization of the site would be a priority; that the mature sugar maples would be left and the growth of new maples encouraged. Ms. Purnell asked if the snags would be left on site. Mr. Branson said only a few would remain. Mrs. Hill asked if the understory would remain. Mr. Branson said it would. Mr. Branson submitted a copy of his "Forest Management Plan," dated July 2006 for the Commission to review and noted that a letter of authorization with a live signature was in the mail. A site inspection was scheduled for Tuesday, October 17, 2006 at 4:00 p.m.

**Ribadenera/79 South Street/#IW-06-52/Repair Pond Overflow Pipe:** Mr. Bennett, contractor, represented the property owner. Mr. Ajello advised the Commission the work was urgently needed because the pipe had failed and the pond was draining. Mr. Bennett said he had originally thought the pipe could be dug out by hand, but now thought due to the weight of the iron pipe encased in concrete, machinery would be required to do the job. He said the replacement could be completed in one day. Mr. Ajello recommended the work be done as soon as possible and an after the fact application approved at the next meeting because there would soon be a frost and the pond would refill if it rained. Ms. Purnell said this could not be done due to the notice requirements under the Freedom of Information Act. It was the consensus a site inspection was not needed. Mr. Ajello was asked to review the file prior to the next meeting.

#### Other Business

**Myfield, LLC./7 Mygatt Road/#IW-05-54/Request to Amend Deed Restriction:** Mr. Boling detailed the minor revisions proposed for the previously approved conservation easement in a draft dated 10/3/06. These included changes to dates, the addition of a paragraph granting the right to do things already approved by the Commission and already shown on the site plan, addition of the right to construct, install, use, and maintain additional utilities and their supporting infrastructure, addition of the right for future public utility companies to provide new utility infrastructure, addition of the right to repair and maintain the stormwater management systems, addition of the right to keep livestock, and other similar revisions. In sections 3.10 and 3.19 the Commission asked that language be added that the management plan must be approved by the Inland Wetlands Commission as well as the Grantee and the construction and maintenance of a fire pond and hydrant be subject to review by the Commission. Mr. Boling agreed to do so. Ms. Purnell referred to the Ct. DEP's brochure on best management practices and said they should be implemented for any work in the easement area to minimize potential impacts.

**MOTION:** To approve the revisions to the conservation easement for Myfield, LLC./7 Mygatt Road/#IW-05-54 per the 10/3/06 draft and the subsequent changes made at the 10/11/06 Inland Wetlands Commission meeting. By Mr. Picton, seconded by Mr. Bedini, and passed 5-0.

Mr. Boling presented a sample 4" X 4" plastic conservation easement boundary marker for the Commission's approval.

**MOTION:** To approve the marking of the conservation easement boundaries for Myfield, LLC./7 Mygatt Road/#IW-05-54 with 4" X 4" plastic markers similar in color and design to the sample viewed at the 10/11/06 meeting. By Ms. Purnell, seconded by Mr. Picton, and passed 5-0.

Mr. Boling asked for permission to begin the driveway work and to install the erosion and sedimentation control measures before the easement is filed on the Town Land Records. He said the owners wanted to begin work, but the Conservation Commission, who would sign off on the final draft before it was filed, would not meet again until next month. There was a brief discussion about exactly what work should and should not be permitted prior to the filing of the easement.

MOTION: To permit Myfield, LLC./7 Mygatt Road/ #IW-05-54 to begin site work for the driveway and stormwater management system, but not for the houses or septic systems, prior to the filing of the conservation easement on the Town Land Records. By Mr. Picton, seconded by Ms. Purnell, and passed 5-0.

**Gentile/38 Winston Drive/#IW-03-68/Request to Revise Permit:** The 10/10/06 letter requesting a revision of the permit for deposition of soil to bring up the grade adjacent to the existing dwelling and to construct a retaining wall was noted and the map, "Plot Plan and Grading Plan," by Mr. Trinkaus, revised to 3/9/04 was reviewed. Mr. Ajello noted the house and drainage had been constructed in the locations previously approved by the Commission, but the retaining wall differed from what was approved. Land Tech's 3/4/04 letter was noted and Mr. Gentile said he had left 140 ft. of the drainage ditch undisturbed per this letter. Mr. Picton asked Mr. Gentile if he had a plan depicting the revisions requested. Mr. Gentile did not. The Commission requested a larger scale map showing the proposed work and asked Mr. Ajello to review it before the next meeting. Mr. Gentile asked if he could bring in two more loads of fill before the next meeting. Mr. Picton said he wanted all the specifications in place before the proposal was discussed further.

**Moore/25 Litchfield Turnpike/Unauthorized Filling, Clear Cutting:** Mr. Thomson recused himself and Mr. Potter was seated. Ms. Purnell noted she had been late for the site inspection, but had walked the property with Mr. Moore afterwards. Mr. Picton briefly reviewed what had been observed on site during the site inspection, which included what appeared to be recent filling of wetlands in the area near the pig pen, in the fenced pasture, and on the far side of the driveway. Ms. Purnell noted the wetlands had all been connected in the past. Mr. Picton said the filling under the power lines had been done long ago, but beyond that point there had been more recent clearing and stockpiling of materials. He thought the recently deposited fill should be taken out of the wetlands, perhaps under the supervision of a soil scientist, and the area restored to its previous contours and condition. Mr. Moore said he had filled within approximately 3 ft. of the driveway to establish a shoulder and make it more level, but had done no filling beyond that. He said this was an area that had been filled before he purchased the property and that he had filled up, but not out closer to the wetlands. He also stated he had removed the asphalt and wood chips from the vicinity of the pig pen. Mr. Potter suggested the disturbed areas be seeded to stabilize them, but did not think anything would be gained by removing the fill spread by Mr. Moore since it had been placed over other fill, not wetlands. There was a discussion about whether the recent fill should be removed, and if so, how much should be removed. Mr. Picton maintained that if Mr. Moore was not ordered to remove what he had illegally placed, every property owner would think he could get away with filling in wetlands. Mr. Moore agreed to follow best management practices and move the pig pen away from the wetlands to a location that would limit the animals' access to the water to only one spot. Mr. Picton noted that moving both bare earth and manure away from the wetlands would improve the water quality. He asked also that the storage of construction materials be moved further from the wetlands. He also recommended an appropriate vegetative buffer be installed between activities and the wetlands. Ms. Purnell noted Mr. Moore had also indicated he wanted to construct a pond and asked that detailed plans be submitted for review at the next meeting. Mr. Moore said he wanted the existing stream to flow through the pond and said he would hire an engineer to draw the plans. Ms. Purnell advised him that the DEP no longer advocated constructing ponds in wetlands and suggested a compromise might be to locate the pond so that only a portion extended into one end of the wetlands. Mr. Picton said the Commission would wait for the pond construction plan and application before requiring a plan for the revegetation of the disturbed areas. Mrs. Hill asked how the previous limit of the wetlands would be determined. Ms. Purnell recommended core samples be taken with an auger by a soil scientist, but Mr. Moore thought borings should be done instead. Mr. Moore asked what the point would be to taking out only what he deposited. He thought first the extent of the original wetlands should be determined and then the Commission

should decide how much material should be removed. The Commission discussed what the proper distance from wetlands should be for various activities; possibly no filling within 50 ft. of wetlands, removing the fill to within 10 ft. of a wetland boundary, removing manure and agriculture to 30 ft. from wetlands, and removing the storage of construction materials to 30 ft. from the wetlands. It was also thought a 30 ft. wide vegetative buffer would be needed to trap sediment before it reached the wetlands. Mr. Ajello noted a 1983 aerial photo in the file showed an unobstructed watercourse and no crossing.

**Town of Washington/Preliminary Discussion/Boat Launch:** First Selectman Sears, Mr. Wilson, engineer, Mr. McGowan, Director of the Lake Waramaug Task Force, and Mr. Frank, president of the Lake Waramaug Association, were present. Ms. Purnell noted she serves on the board of the Lake Waramaug Task Force, but it had not yet held a discussion about the specific plans. Mr. Sears gave a brief history of the negotiations to limit and control motor boat access in order to protect the quality of the lake and guard against invasive species. The plans were drafted over two years in cooperation with the DEP and the DOT. Mr. Sears noted the main problem was the small size of the property, which had to provide the maximum number of parking spaces with as little impact as possible to the lake shore. The topo map prepared for the Lake Waramaug Assoc. by Mr. Adams, dated 9/2000 was reviewed. Mr. Sears said the work would be done in stages; stage II being the replacement of the boat storage and air pump facility to be relocated to the other side of the property. Mr. McGowan spoke of the efforts to protect the health of the lake. He said from an ecological viewpoint, the proposed boat launch on Town property would be far better for the lake than would the construction of a launch on state property at the other end of Lake Waramaug. The reasons he gave included: 1) it was shallower at the state park and the wave action in the shallow area would cause greater disturbance, 2) minor dredging would be needed at the Town end in comparison to what would be needed at the state park end, 3) the Town already has a boat inspection program in place, while the state has no plans to begin such a program, and 4) much larger boats would be able to launch at the state park site. Mr. Wilson reviewed his map, "Boat Ramp," dated July 2006. He noted the net impact would be below the 5000 sq. ft. threshold that would require an Army Corps of Engineers permit. 220 ft. of shoreline would be affected, 3000 sq. ft. of the lake would be filled, and 200 cu. yds. of material would be deposited for the proposed parking area. A minimum of seven spaces is needed, but 9 spaces is the goal. All improvements would be kept out of the state right of way and sufficient sight lines for entering and exiting would be maintained. A retaining wall of precast units would be constructed along the shore line and all drainage would be handled on site. Mr. Wilson explained a standard catch basin with a drop in filter would be installed to catch petroleum, and added the filter could be lifted out for cleaning and perhaps even removed on a seasonal basis. He also briefly reviewed the construction sequence, which included construction of a staging area so the existing boat ramp could function while the new one was being built. The commissioners were asked to come in to review the preliminary plans and to submit questions and comments as soon as possible. The applicant was asked to submit with the application a colored map and a narrative analyzing feasible and prudent alternatives.

#### Enforcement

**Spring Hill Farm, LLC. and Kessler:** Mr. Ajello reported the court had approved both settlements and both cases were closed. He said he had attended a pre construction meeting for Spring Hill and had approved the final plans. He said the plan was in the file and commissioners were welcome to review it.

**Town of Washington/Canoe Brook Streambank Repair:** Mr. Picton asked if the modified rip rap installed was what had been approved. It was noted the Commission had not granted permission for excavation or equipment in the streambed; it had understood the work would be done from the bank by the Art Association. Mr. Ajello was asked to discuss the restoration of the streambed with the contractor.

**Wright/59 Scofield Hill Road/Unauthorized Clearing, Filling, Soil Disturbance:** Mr. Ajello

reported Mr. Cannavaro, road foreman, had not yet had a chance to review the engineered plans and that Mr. Wright was waiting to hear from the Town before beginning the restoration work.

**9 Main Street:** Mr. Ajello met with Mr. Johnson who promised to submit a map showing the planted buffer line so that it could be discussed at a future meeting.

**Peck/10 Slaughterhouse Road:** Mr. Ajello reported the enforcement order had been filed on the Town Land Records. He noted the disturbed areas were gradually being restored on their own.

**Corbo/40 Nettleton Hollow Road:** Mr. Corbo is still working on the analysis required as a condition of his driveway permit.

Other Business

**Revision of the Regulations:** Ms. Purnell was still reviewing Mr. Picton's draft and said she would circulate it soon.

Mr. Bedini had drafted a letter to the Atty. General concerning the difficulties under which Inland Wetlands commissions work when the courts do not support their decisions. He asked if he could send it on behalf of the Commission. Mr. Picton and Mrs. Hill agreed with the points he raised.

Mr. Potter said he thought people were reluctant to appear before the Inland Wetlands Commission because its decisions were arbitrary. Mr. Picton explained the Commission had to take into account the specific physical conditions on site and so it was, indeed, a challenge not to appear arbitrary when making judgments. Ms. Purnell also noted the Commission follows its regulations for new activities, but sometimes must deal with grandfathered uses, and in doing so, might appear to be arbitrary. Mr. Bedini recommended Mr. Potter attend all of the DEP Inland Wetlands commissioner training sessions and Ms. Purnell said she would supply him with information on wetlands impacts, recommended buffer widths, etc.

MOTION: To adjourn the meeting. By Ms. Purnell.

Mr. Picton adjourned the meeting at 10:24 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill

Land Use Coordinator