

## **April 13, 2005**

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

MEMBER ABSENT: Mrs. Gray

ALTERNATES PRESENT: Mr. Bedini, Ms. Coe, Mrs. Korzenko

STAFF PRESENT: Mr. Ajello, Mrs. Hill

ALSO PRESENT: Mrs. Weeks, Mr./Mrs. Baiocchi, Mrs. Mitchell, Mr. Childs, Mr. Charles, Mr. Neff, Ms. Paca, Mr. Lecher, Mr. Sears, Mr. Fenwick, Press

Mr. Picton called the meeting to order at 7:00 p.m. and seated Members Hill, LaMuniere, and Picton and Alternates Coe and Bedini for Mrs. Gray and Ms. Purnell.

MOTION: To add the following subsequent business

to the agenda: 1) New Applications:

A) The Private Mortgage Fund/61 South Fenn

Hill Road and 4 Shinar Mountain Road/

#IW-05-18/Lot Line Revision, B) Lake

Waramaug Country Club/\_\_\_ Golf Links Road/

#IW-05-19/Renovate Beach House 2)

Communications: A) 4/11/05 Memo to Inland

Wetlands Commission from Ms. Volinski, HVA,

3) Other Business: A) Walker Brook Subdi-

vision, New Milford. By Mr. Picton,

seconded by Mrs. Hill, and passed 5-0.

Consideration of the Minutes

The 3/23/05 Regular Meeting minutes were accepted as amended.

Page 1: Ms. Dzenutis should be listed under Also Present.

Page 5: Whalen: 4th line: Insert he after said.

Page 5: Whalen: last sentence: #5: Should state: ...the additional after the fact fee of \$60 with his application.

Page 5: Motion to enter executive session: Add: to discuss the following pending litigation: Gatto, Reinhardt, Stiteler-Giddins, and Reinhardt and Cremona.

MOTION: To accept the 3/23/05 Regular Meeting

minutes as amended. By Mr. LaMuniere,

seconded by Mrs. Hill, and passed 5-0.

The 4/6/05 Private Mortgage Fund site inspection minutes were accepted as written.

MOTION: To accept the 4/6/05 Private Mortgage Fund

site inspection minutes as written. By Mr. Picton, seconded by Mr. Bedini, and passed 4-0-1. Mr. LaMuniere abstained because he had not attended the site inspection.

Ms. Purnell arrived at 7:07 and was seated.

#### Pending Applications

**H.O.R.S.E of Ct./43 Wilbur Road/#IW-04-57E/Construct Sheds and Fence:** Mr. Ajello noted no new information had been received. Ms. Purnell asked again for a clearer map showing which structures exist, which are proposed, which will be taken down, and the location of the wetlands. She stated it was the applicant's responsibility to prove an agricultural exemption is justified. It was the consensus that a vegetative cover along the stream banks and the proper management of manure were required and that if the proposed activities did not qualify for an agricultural exemption, this would become an enforcement matter. As the applicant had not provided information from the NRCS as requested, Mr. Picton asked Mr. Ajello to do so. Mr. Ajello was also asked to write to Ms. Wahlers to inform her that if the requested information is not submitted by the next meeting, the Commission will likely vote to deny the exemption request and order protective wetlands measures such as maintaining vegetation in the wetlands and fencing off the stream areas.

**Holly Hill Farm, LLC/87 Whittlesey Road/#IW-05-09/Restoration, Reforestation:** It was noted three documents had been received since the last meeting: 1) Mr. Child's 3/22/05 report, "Final Report to the Inland Wetlands Commission...On An Application for Forest Restoration and Reforestation of the Meadow and Wooded Slope Above the Shepaug River," 2) Ms. Paca's 4/11/05 letter re: "Pilot Programs for Restoring the Wetlands at Holly Hill Farms, LLC," and 3) Mr. Ajello's 4/13/05 staff memo to be used as a basis for discussion. Mr. Picton said he planned to use these three documents to come up with a course of action to protect the wetlands and watercourses, slope stability, and the water quality of the upland areas. He briefly reviewed Mr. Ajello's memo. It was the consensus that not all of the activities applied for would be approved, especially activities proposed in areas that were in immediate risk. Mrs. Hill cautioned that although the Commission might agree that parts of the proposal should be approved, while others should not, the application should officially be voted on as a whole before any more work is done on site. Ms. Paca's 4/11/05 proposal was discussed point by point.

1. Stabilize the dump site per Mr. Child's recommendations: Mr. Picton thought Mr. Child's recommendations were good, but asked if anyone thought an engineer should review them and/or specify how the work should be carried out. Mrs. Korzenko recommended that Mr. Neff review the specifics and report back to the Commission regarding whether they would work. Mr. Child spoke briefly about the need to stabilize the steep slopes in this area that are now subject to splash erosion due to the removal of vegetation with jute mesh. Ms. Paca's memo called for the judicious removal of the wood chips, but Mr. Picton warned against the removal of bedded materials and organic cover and asked if Mr. Childs would be willing to supervise the work. Ms. Paca said the property owners would allow his supervision and Mr. Childs agreed to do so. The last three paragraphs of page 9 of Mr. Child's report were referenced.

2. Stabilization of the severely eroded gullies: Mr. Picton thought Ms. Paca's proposal was a good start, but also wanted Mr. Neff's advice. He referred to the bottom of page 6, top of page 7 of Mr. Child's report, which recommended a geotextile fabric be placed against the eroded gulley walls, which would then be lined with cobblestone. He asked Mr. Neff if he recommended a gradient of stone sizes be used.

Mr. Neff stated filter fabric usually requires a bed of smaller aggregate stone to make it more stable. Mr. Picton asked Mr. Neff for written guidelines, which he agreed to supply. Mr. Picton referenced the following paragraphs from Mr. Child's report: page 5, paragraph 1, page 6, paragraph 3, and page 7, paragraph 1. Mr. Picton suggested that one gully be stabilized using Mr. Neff's recommendations; the work to be done under Mr. Child's supervision, at which time the Commission will conduct an inspection and determine whether work on the remaining gullies should proceed. It was agreed that the rocks to line the gullies could be from the old pillars on site or from off site.

3. Establishment of one third of the meadow: Mr. Picton noted the Commission had previously approved a 30 ft. wide strip of meadow, which it was hoping would grow in and provide complete ground cover before the next strip was disturbed. He said one month was not enough time for the new vegetation to fill in. He asked if the wild flower meadow could be established without disturbing the soil. Mr. Child's responded that the soil must be disturbed for the wildflowers to be successfully established. Mr. Picton accepted that the soil disturbance was necessary, but asked for a firm distinction between the pilot strip area, which had been unstable, and any additional strips to be planted. Ms. Purnell noted the proposal called the working in a dressing of sweet peet and Mr. Childs suggested green sand to mixed in to increase porosity. It was agreed the wildflowers would be established one strip at a time in a manner that would prevent the slope from becoming erodable. Mr. Picton said the Commission would inspect to make sure a stable vegetative cover had grown in before permission would be given to begin work on the next strip. It was also requested that silt fence be installed along the entire expanse of the 663 contour. Mr. Picton also stipulated that no top soil could be added to the surface.

4. Remove pachysandra and Japanese knotweed and plant with wetlands wild flowers: Ms. Purnell asked whether this was proposed throughout the site or only in specific areas. It was noted the work proposed was for plots 3 and 4 per page 6, paragraph 2 of Mr. Child's report. Mr. Picton stated care must be taken to remove only the invasives, as blanket removal would destabilize the area. Ms. Paca suggested individual plants would be pulled up and Ms. Purnell recommended she obtain guidance from the Nature Conservancy on knotweed removal. Mr. Picton urged the applicant to more clearly define the areas where the invasives were to be removed and then to do the work in accordance with Child's recommendations on page 6, paragraph 2. He also referred to #6 regarding soil stability in Mr. Ajello's staff memo. There was a brief discussion about whether the native species to be planted had to be indigenous to Ct. or to New England. Ms. Purnell pointed out the list of plants on page 10 of Mr. Child's report and Ms. Paca stated she would consult with Mr. Childs about the planting plan.

5. Pilot restoration of the "American understory:" Ms. Purnell pointed out that this was the matter on which the commissioners had the greatest diversion of opinion regarding how it should be handled. Mr. Picton asked that the pilot area be well defined, that the term, "declining," be deleted as declining trees contribute to the entire system of growth and replacement of the forest community, and that "native" understory replace "American" understory. Mr. Childs agreed to flag the trees proposed for removal. A 50' by 50' area was agreed upon; the work to be done per pages 2 and 3 of Mr. Child's report. Mr. Childs stated a multi tiered canopy would be established. Ms. Purnell asked if some trees could be girdled to develop into snags. Although it was agreed this would be good for the ecology of the forest, it would be unsightly for a front yard, and so it was decided this could be done later elsewhere on the property.

Regarding the proposal in its entirety, Mr. Picton stated the only work agreed upon was the five points listed above. He noted the Commission specifically had not agreed to across the board cutting of vegetation, disturbance of soil, or deposition of material, organic or otherwise, in the regulated areas and defined the regulated areas where the Commission was gravely concerned about negative impacts as all areas from the river to within 50 feet upgrade from the top of the steepest slopes, meaning those

slopes, which exceed 20% in grade. Mrs. Korzenko asked Mr. Neff to delineate these areas of concern on the map, and he agreed to do so. Based on this evening's discussion, Mrs. J. Hill will draft a motion of approval for all to review prior to the next meeting.

**Knudsen/236 Nettleton Hollow Road/#IW-05-10/Clean Out Silt Pond:** It was noted this application had been reviewed at the last meeting and was ready for approval.

MOTION: To approve as submitted application #IW-05-10 submitted by Mr. Knudsen to clean out the silt pond at 236 Nettleton Hollow Road. By

Ms. Purnell, seconded by Mrs. Hill, and  
passed 4-0-1. Mr. Picton abstained because  
he had not been present for the review of  
this application at the last meeting.

**Bachelier/267 New Milford Turnpike/#IW-05-11/Rebuild Shed:** Ms. Purnell noted this application had been reviewed at the last meeting and that the shed was further from the river than another structure for which work had previously been approved.

MOTION: To approve application #IW-05-11 submitted  
by Mr. Bachelier to rebuild a shed at 267

New Milford Turnpike. By Ms. Purnell,  
seconded by Mrs. Hill, and passed 4-0-1.

Mr. Picton abstained because he had not  
been present for the review of this  
application at the last meeting.

**Private MTG Fund, LLC/61 South Fenn Hill Road/#IW-05-12/Install Driveway and #IW-05-18/Lot Line Revision:** It was noted there was a new application for a lot line revision for this property, which Mr. Ajello pointed out would change the map for the first application. Mr. Neff, engineer, and Mr. Fenwick, contractor, were present. The original feasibility study was compared to the proposed site plan presented by Mr. Neff at the last meeting. Ms. Purnell asked if it was still possible to develop the SE corner of the property as originally approved, noting it would not require a wetlands crossing. Mr. Neff said there was a compressed site in the SE corner, but that the impact of the proposed crossing would be minimal. Ms. Purnell disagreed, saying the engineering impacts would be minimal, but there would be long term biological impacts. Mr. Picton, Mr. LaMuniere, Mr. Bedini, and Mrs. Hill thought the upgrade of the driveway from grass to asphalt would have little impact. Ms. Purnell said the Commission must consider the plans with the least impact to the wetlands and noted the current proposal did not include an arched culvert, planting plan, or conservation easement. She voiced her concern that if the Commission approved the lot line revision, it would eliminate the feasible and prudent alternatives for the proposed driveway crossing. The Commission also discussed: 1) Were both lots presently viable building lots? Mr. Neff stated 4 Shinar Mountain Road was a lot of record, that the two lots were separate on the tax map, and the lot could accommodate a septic system. Mr. Picton asked Mr. Neff to provide documentation that this is, indeed, a lot of record. 2) Should there be a condition of approval that the property may not be further resubdivided? Several commissioners favored a conservation easement instead. Regarding the proposed lot line revision, Mr. Picton said he saw the inevitability of two house sites and so asked for a conservation easement to protect the landscape pertinent to the wetlands. Mr. Neff agreed to draft such an easement. 3) It was again noted

the Baiocchis have water rights on 61 South Fenn Hill Road. Mr. Neff stated again that the water pipes were well below the depth at which the proposed conduit would be installed and said if the lines were damaged, they would be repaired. 4) Mr. Baiocchi suggested an alternate site for the driveway entrance, but Mr. Neff said that area would not be feasible due to elevation and slope issues. He noted the proposed driveway was 7%. 5) Mrs. Mitchell, adjoining property owner, urged the Commission to consider feasible and prudent alternatives. She stated the existing farm road is fragile. Ms. Purnell noted, for example, that a bridge was approved across Bee Brook because it was the best and only access to the property, but in this case the property could be utilized in another way. Mr. Picton again asked the applicant to consider a conservation easement. Further discussion was tabled to the next meeting.

**Stiteler-Giddins/198 Tinker Hill Road and West Shore Rd/#IW-05-13/**

**2 Lot Subdivision:** Mr. Picton noted a petition had been submitted from twenty-five property owners requesting a public hearing to consider this application.

MOTION: To schedule a public hearing to consider

application #IW-05-13 submitted by Stiteler-

Giddins for a 2 lot resubdivision at 198

Tinker Hill Road and West Shore Road at

6:30 p.m. on Wednesday, May 11, 2005 in the

Land Use Meeting Room, Bryan Memorial Town

Hall, Washington Depot, Ct. By Mrs. Hill,

seconded by Ms. Purnell, and passed 5-0.

Mr. Picton noted a report from Land Tech had been received, but more information was needed. He said he would ask the Commission's consultant to study and report on the following: 1) soil types upstream of the "new" watercourse, 2) whether the lower area referred to by REMA where the driveway is proposed is a watercourse, 3) the extent of the watershed that drains toward the proposed building site, and 4) whether the plans as proposed can handle the flow of water from above the watercourse all the way down to the road. He asked the applicant to make it clearer 1) how negative impacts to the wetlands and watercourses will be avoided and 2) what the water flow patterns are on site, and noted it looked like there are heavy flows within 20 feet of the proposed house site. Mr. Neff responded he proposed to collect the water in a swale to the rear of the building to keep it away from the house and said he would provide additional construction details. Mr. Picton noted the Commission's concern about keeping control of erosion and sedimentation transport during construction. Mr. Neff said the Commission's consultant had not received the erosion control plan, which would have addressed many of his issues.

**Bialobrzkeski/113 Woodbury Road/#IW-05-14ATF/Septic Repair, Access:**

Mr. Ajello reported the disturbed area had been regarded and stabilized.

MOTION: To approve application #IW-05-14ATF submitted

by Mr. Bialobrzkeski for a septic repair and

access at 113 Woodbury Road. By Mrs. Hill,

seconded by Mr. LaMuniere, and passed 5-0.

New Applications

**Town of Washington/Hinkle Road and Church Street/#IW-05-15/Drainage and Paving:** The map, "Preliminary Plan Depicting Proposed Road Drainage Improvements Overall Plan - Church Street and New Preston Road," by Stuart Somers Co., dated 11/1/04 was reviewed. Mr. Sears pointed out the areas that will be paved and the location of the existing catch basin on Church Street, which empties into the East Aspetuck River. He said there would be no change to this basin and questioned whether there were any wetlands concerns. A site inspection was scheduled on Tuesday, April 19, 2005 at 5:00 p.m.

**Town of Washington/6 Bryan Plaza/#IW-05-16/Replace Bridge:** The plans, "Proposed Bridge and River Bank Stabilization," by Land Tech Consultants, Inc., dated 4/6/05 were reviewed. Mr. Sears explained the proposed bridge would be built off site and placed on the existing abutments if they are suitable. If not, he noted new abutments were included in the plans. Ms. Purnell asked if the bridge could be built from something other than pressure treated wood. Mr. Ajello noted sealing the bridge with stain would help to prevent leaching into the brook. A site inspection was scheduled for Tuesday, April 19, 2005 at 5:45 p.m.

**Washington Art Association/4 Bryan Plaza/#IW-05-17/Streambank Stabilization:** Mr. Sears noted he had a letter on file authorizing him to represent the Art Association. The plans, "Proposed Bridge and River Bank Stabilization," by Land Tech Consultants, Inc., dated 4/6/05 were reviewed. Mr. Sears stated the banks of Canoe Brook had severely deteriorated in this area and a gabion wall was proposed to stabilize them. Ms. Purnell requested "softer engineering," explaining that the installation of gabions would cause additional erosion and noting the failure of a gabion wall on Walker Brook. She provided him with information, "Wetlands Restoration of Theroux Brook," to review and said she was also concerned about cumulative impacts to the Shepaug River. A site inspection was scheduled for April 19, 2005 at 5:30 p.m.

**Lake Waramaug Country Club/ Golf Links Road/#IW-05-19/Renovate Beach House:** Mr. Lecher, President of the Lake Waramaug Country Club detailed the work to be done; reproofing, residing, and replacement of windows. The map, "Site Plan of Lake Waramaug Country Club Waterfront," by Mr. Lecher, revised 4/11/05 was reviewed. Ms. Purnell asked if a dumpster was shown and Mr. Lecher pointed it out on the map. He also noted a construction fence would be installed and tarps used to keep the ground clean. Duration of the project would be six weeks. Ms. Purnell noted the construction fence would be only 40 ft. from the lake and stated a requirement would be that all work be done within the fence. Mr. Lecher read the construction sequence. Mrs. Korzenko asked if the roof drainage system would be altered. Mr. Lecher said it would not. Mr. Lecher asked why the application could not be approved administratively. He was told the proposed work was on the lake shore and within the 100 ft. regulated area. Also, there would be a record to refer to with an application to the Commission.

#### Enforcement Report

The following matters were very briefly discussed:

**Adams/57 West Shore Road:** Ms. Purnell noted the erosion controls had been installed as approved.

**Aldridge-Daly/300 West Shore Road:** Mr. Ajello did not think there had been any further activity since he had notified the owners to stop clearing.

**Arciola/9 Dark Entry Road:** Mr. Bedini questioned why the work had been signed off when the swale was not stabilized. He noted it was not grassed as approved. Mr. Ajello will inspect prior to the next meeting.

**Sheinfeld/110 Lower Church Hill Road:** Mrs. Hill asked Mr. Ajello to check this property to make sure all required work had been done.

**Logging Operation/Romford Road:** Ms. Purnell asked Mr. Ajello to inspect the site. Mrs. J. Hill

noted there were piles of debris near what appeared to be vernal pools.

**Reinhardt/10 Perkins Road:** It was noted the water in her basement was evidence of how poorly drained this area is.

**Whalen/Baldwin Hill Road:** Mr. Ajello reported the work had stopped and Mr. Whalen would hire Mr. Temple, soil scientist, and Mr. Neff to delineate the wetlands and map the wetlands boundary prior to submitting an application.

**Greenfield/Ives Road:** The Commission still has not received the information requested.

**Fowler/Nichols Hill Road:** Mr. Ajello was asked to write a letter requesting the planting plan and other information that has been due for several months.

**Beck/132 Calhoun Street:** Mrs. Korzenko noted an evaluation of the removal of the invasive species from this site was due in May. Mrs. Hill stated Mr. Beck had hired Mrs. Corrigan to provide the Commission with a report.

**Reinhardt/10 Perkins Road and Cremona/8 Perkins Road:** Mr. Ajello noted the Commission had requested soil testing and a map delineating the wetlands by April 13, but said he did not expect they would be submitted due to the pending litigation. Mrs. Korzenko informed the Commission that Atty. Zizka recommended the property owners be required to submit a total environmental evaluation, which would include the impact of the work done on the lake. Ms. Purnell said Ms. Brooks, the state's Asst. Atty. General, had advised her that since the owners were not permitting the Commission to make a site inspection and since the requested wetlands mapping had not been done, that it base its enforcement actions on the fact that an intermittent stream is located on the properties. Mr. Picton noted that Mr. Dirienzo, Chairman of the Roxbury Inland Wetlands Commission and land use consultant, had been in contact with the DEP and had offered his consulting services. Mr. Picton said the Commission also had the option of asking Mr. Childs or Mr. Jontos for ecological evaluations. Mr. Ajello was asked to contact both Mr. Dirienzo and Mr. Jontos, although it was not known exactly how detailed their reports could be if they were not permitted on the Reinhardt property. Mr. Ajello will ask Mr. Cremona for permission to enter his property. Mr. Dirienzo and Mr. Jontos will be asked to assess the degradation and impacts to the watercourse, which have taken place and provide recommendations for restoration. It was the consensus to file both the 2/15/05 cease and desist orders on the Town Land Records.

MOTION: To file the 2/15/05 cease and desist orders

issued to Reinhardt/10 Perkins Road

and Cremona/8 Perkins on the Town Land

Records. By Mrs. Hill, seconded by Ms.

Purnell, and passed 5-0.

Atty. Zizka arrived at this point to discuss the pending litigation with the Commission.

MOTION: To go into executive session at 10:06 p.m.

to discuss pending litigation: 1) Gatto,

2) Reinhardt, 3) Stiteler-Giddins, and 4)

Reinhardt and Cremona. By Mrs. Hill,

seconded by Mr. LaMuniere, and passed 5-0.

MOTION: To come out of executive session at 11:05 p.m.

By Mrs. Hill, seconded by Mr. Picton, and  
passed 5-0.

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

Mr. Picton adjourned the meeting at 11:10 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted, Janet M. Hill, Land Use Coordinator