

## **May 25, 2005**

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

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

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

ALSO PRESENT: Mr. Stiteler, Ms. Giddins, Atty. Kelly, Mr. Sabin, Atty. Sienkiewicz, Mrs. Weeks, Mr. Neff, Mr. Solley, Ms. Baldwin, Mr. Sears, Ms. Baldwin, Mr. Kleinberg, Mr. Fenwick, Mrs. Mitchell, Atty. Hammer, Mr. Antonios, Mr. Boling, Mr. Charles, Mr. Worcester, Mr. Zinick, Mr. Collins, Mrs. Matthews, Mr. Neff, Mr. DePecol, Mr. Dolph, Mr. Feola, Residents

PUBLIC HEARINGS

**Stiteler-Giddins/198 Tinker Hill Road and West Shore Road/**

**#IW-05-13/2 Lot Resubdivision/Continuation**

Mr. Picton reconvened the public hearing at 5:02 p.m. and seated Members Hill, LaMuniere, Picton, and Purnell and Alternate Korzenko for Mrs. Gray.

Mr. Picton noted one hour was scheduled for the hearing; 15 minutes for Commission business, 15 min. for submissions and summary by the applicant, 15 min. for public comment, and 15 min. for the wrap up. He referred to the complete list of documents in the file, which included all those cited at the first session of the hearing and all submitted at the hearing and afterwards.

Mr. Picton noted he had reinspected the property and had two questions: 1) What is the exact shape/location of the proposed house? and 2) Is the water that flows approx. 36 ft. from the NW corner of the house an intermittent stream or surface runoff?

Mr. Neff, engineer, submitted revised documents; 1) "The Proposed Site Development Plan," sheet 3 of 7, by Mr. Neff, revised to 5/25/05, Revision #4, 2) "Soil Erosion and Sedimentation Control Plan," by Mr. Neff, revised to 5/23/05, Revision #2, and 3) a letter dated 5/25/05 from Mr. Neff to the Commission, which addressed the questions raised at the first session of the hearing. The revisions to the site plan included 1) clarification of the location of an additional intermittent watercourse located at the NW side of the proposed house by the surveyor, 2) location of the rectangular shaped house, 3) the swath to be cut for the construction of the driveway was decreased to 20 ft., 4) the conduit was run down the center of the driveway to reduce the total disturbance, 5) watercourses were more clearly labeled, and 6) the stone wall had been removed from the map. Revisions to the erosion control plan included 1) deletion of the stockpile notes and piles because the excavated material will be immediately trucked off site, 2) addition of a note that the conduit will run down the center of the driveway, 3) addition of a cross section of the crown section of the driveway, 4) addition of notes re: the proposed vegetative buffer along the driveway, and 5) modification of the timing of the work to be done.

Mr. Neff stated he had recalculated the watershed area above the house to 4.6 acres and that the proposed curtain drain was adequately sized to handle the runoff. He also noted Mr. Sabin, landscape architect, had prepared a planting plan for the vegetated filtration buffer along the sides of the driveway.

Mr. LaMuniere asked how the runoff would be directed to the existing culvert. Mr. Neff explained it would flow over land to the vegetated buffers and then find its natural path to the wetland area and the culvert.

Mrs. D. Hill asked if the vegetated buffers were still 15 ft. wide on each side. Mr. Neff said, yes, this

had not changed.

Ms. Purnell stated that based on comments from the Commission's consultant, the applicant was filling a watercourse for the driveway. Mr. Neff said the consultant had not definitively stated it was a watercourse and the applicants' consultant had submitted a letter, which stated it was not a watercourse.

Mr. Neff stated the proposed house footprint had been decreased slightly, but was still in the same area. Also the size of the porch on the west side of the house was now slightly smaller. Mr. Picton asked that the house site be restaked.

Mr. Picton noted the swale and vegetated buffers proposed as erosion controls would not be installed until after construction. Mr. Neff stated they would be installed before construction begins, but would not be effective for a few months until the vegetation has grown in.

Mr. Sabin submitted the plan, "Landscape Plan," 2 sheets by Mr. Sabin, dated 5/19/05 and 7 information sheets entitled, "New England Seed Mixes." He made the following points: 1) Native plants that will do well in both wetland and upland soils and that match those already on site would be used, 2) No mowed lawn areas were proposed, 3) New England erosion control mix was proposed for the wetter areas of the property, 4) The septic area would be planted with no mow fescue and with a New England blend wildflower mix around the edges, 5) The wildflower mix would also be planted around the house. He also spoke briefly on feasible and prudent alternatives, saying there were other sites for a small house further up the hill, but they were not prudent due to the location of wetlands and watercourses. He said there were headwaters and seeps in hard pan soils further up the hill, whereas, the proposed house site was on a "bottom flat" where it is somewhat open and only a short driveway is required. Mr. Picton asked if he had considered the non wetlands soils nearer to the existing house. Mr. Sabin said he had not because the applicants want access to the lake and due to the steep slopes, that would not be feasible. Ms. Purnell asked if the buffer area would require maintenance. Mr. Sabin said the herbaceous buffer would be brush hogged once every two to three years, watered the first year, and surrounded by deer fence until it is established. Mr. Picton requested a written maintenance plan. Ms. Purnell asked what would prevent the owners from installing a lawn. Mr. Sabin said that would be a regulated activity in areas that were clearly visible from the road. He pointed out the landscaping plan noted the woods were to remain.

Atty. Kelly asked that the hearing be continued if there was any additional information submitted so that the applicant would have an opportunity to address it. He noted there is already a letter dated 12/8/04, which addresses feasible and prudent alternatives, in the file. He also responded to a remark from Atty. Sienkiewicz at the first session of the hearing, that the applicants had just placed conservation easements on their property without getting prior approval, saying they had not needed approval to do so and the easements were not put where they are in order to force approval of a house at the proposed location. He said the conservation easements were totally restrictive and could not be amended, so a driveway through these parcels could not be considered. He submitted the 5/15/05 letter from Atty. Miles and a 4/21/2000 article from the **Litchfield County Times** regarding the status of Tinker Hill Road and spoke of how the property owners had cooperated with then First Selectman Chapin when he took the position that the Town would not improve the road. He noted, too, that Mr. Stiteler and Ms. Giddins had first tried to donate their lots to Steep Rock, but since it was not contiguous to other Steep Rock lands, their offer was refused. Finally, on the question of whether the driveway area is a swamp by definition, he stated the Town Inland Wetland Regulations require both swamp vegetation and very poorly drained soils, and therefore, the Commission had no basis for determining the area is a swamp.

The public commented.

Atty. Sienkiewicz, representing Mrs. Weeks, asked that the hearing be continued because he had not

had the opportunity to review and comment on the material submitted this evening. He stated he was concerned about the nature of the proposed activity and asked the Commission to rule it a significant activity based on the testimony presented and its own observations. If found to be a significant activity, he said, the Commission could not approve the application unless the applicant shows "in a meaningful way" that there are no feasible and prudent alternatives. He said this had not been done as the applicant had not shown the Commission any other site plans, nor had it discussed the impacts of alternate site plans. He suggested a feasible and prudent alternative would be to access the building site from the top of the hill. He said the applicants would continually fight runoff during construction and that any erosion that occurred would empty into the lake. If the application is approved, he warned the Commission that very restrictive conditions regarding the limit of disturbance during and after construction would be needed. He noted the site is very constricted and feared the limit of disturbance would be expanded for activities such as boat storage and parking. He asked the following questions: 1) How would the discharge from the footing and roof drains be handled? 2) How will the water flowing from the swale around the house be handled, especially considering the increased size of the watershed? 3) With the crown of the driveway raised 8", he thought the driveway would act as a dam for surface runoff flowing west to east, and so asked how that runoff would be handled. 4) What was the purpose of the path shown on the landscaping plan; was it for traffic between the main house and the lake? 5) Is there a watercourse on the west side of the house? He noted with the new watercourse indicated on the map, the proposed house and part of the driveway were in a regulated area and so the application must be revised to show this encroachment. He said the Commission should be concerned about the outflow from the septic curtain drain, especially during high water times of the year. Mr. Picton asked Atty. Sienkiewicz to submit his comments in writing.

Mr. LaMuniere noted the labeling of the watercourse on the west side, the proposed swales, and the existing culvert and asked how the culvert could handle more water. Mr. Neff stated the development site was a relatively small area so there would not be a significant increase in the amount of water and the existing 15" pipe was adequate. He did note, however, the DOT should clean out both the catch basin and pipe. He also pointed out that the 8" driveway crown would direct the runoff in two directions so it would not be as concentrated. Mr. Picton was concerned the driveway crown would create a divide and change the direction of the flow.

If the Commission were to approve the application, Atty. Sienkiewicz stated it should include a condition to prevent the applicants from using the path as a through road as it had been created without any wetlands approvals and there are watercourses throughout the hillside. Ms. Purnell stated she had walked the entire property and had not seen a path. Mr. Picton asked Mr. Ajello to inspect the property for regulated activities.

Mr. Picton had previously asked Atty. Sienkiewicz for his comments in writing and he now asked Atty. Kelly to submit a written statement for the record, as well.

MOTION: To continue the public hearing to consider

Application #IW-05-13 submitted by Mr.

Stiteler and Ms. Giddins for a two lot

resubdivision at 198 Tinker Hill Road and

West Shore Road to June 8, 2005 at 5:00 p.m.

in the Land Use Meeting Room. By Ms.

Purnell, seconded by Mr. LaMuniere, and

passed 5-0.

At 6:05 p.m. Mr. Picton continued the public hearing to 5:00 p.m. on Wednesday, June 8, 2005 in the Land Use Meeting Room.

**Private Mortgage Fund, LLC./61 South Fenn Hill Road/#IW-05-12/ Construct Driveway**

Mr. Picton reconvened the public hearing at 6:08 p.m. and seated Members Hill, LaMuniere, Picton, and Purnell and Alternate Korzenko for Mrs. Gray.

Mr. Picton said one hour was scheduled for the hearing; 15 minutes for Commission business, 15 min. for submissions and summary by the applicant, 15 min. for public comment, and 15 min. for a wrap up. He noted the list of items in the file had been updated to include the documents submitted since the first session of the hearing. He stated approximately the first 45 minutes of the first session of the hearing had not been recorded, but that the minutes were thorough and accurate. Ms. Purnell suggested the applicant or the public could augment the minutes if they found them lacking.

Mr. Ajello noted the applicant had submitted a revised map, "Proposed Site Development Plan," by Mr. Neff, revised to 5/25/05 with an expanded conservation easement area. Also submitted were; 1) "Subsurface Sewage Disposal System," by Mr. Neff, revised to 5/25/05, Revision #3, which showed the stockpile location closer to the proposed house site in order to preserve the wildflowers reported by Mr. Logan, 2) the 5/25/05 letter to the Commission from Mr. Neff, which stated the property is not located within a designated area on the Natural Diversity Data Base map as Mr. Logan had claimed, with a section of the map attached, and 3) "Proposed Site Development Plan - Boundary Line Revision," by Mr. Neff, revised to 5/25/05 for reference purposes. Mr. Neff noted the intermittent watercourse that was not included on the previous map because it flowed through the center of the flagged wetland corridor was now indicated. Mr. Picton asked why the buffer area had not been shown on the map. Mr. Neff responded there was a separate application for the lot line revision and this was included there. Mr. Picton asked that the details for both applications be coordinated on the map.

Atty. Fisher disputed Atty. Hammer's claim that per Section 17.2 of the Zoning Regulations 4 Shinar Mountain Road was not a building lot. He stated 17.2 limits buildability, but does not automatically require that small non conforming lots be merged with any abutting lots and that this matter was not relevant to the Inland Wetlands driveway application.

Atty. Hammer submitted copies of Sections 2, 11, and 17 of the Zoning Regulations and a supplemental letter from Mr. Logan dated 5/25/05 and complained he had no opportunity to review the documents just submitted by the applicant. He said the applicant's claim that he has two lots, doesn't want more than two lots, and only wants to reconfigure the two lots he already has is incorrect because 4 Shinar Mountain Road does not comply with Section 17.2 or the minimum lot size requirements. He also stated map #1655 on the Town Land Records showed the 1.7 acre lot could support only .3 of a dwelling unit. Mr. Picton stated this was not a wetlands issue. He said the Commission would consider whether the proposed activities would have an adverse impact on the wetlands and it would be up to the Planning and/or Zoning Commissions to determine whether this was a legal building lot. Mr. Hammer disagreed, saying the applicant was using the argument that he already has two building lots to show he has no feasible and prudent alternatives. Mr. Picton stated the proposed lot line revision was not the subject of the hearing and asked that the focus return to the wetlands issues involving the proposed driveway.

Atty. Hammer made the following points: 1) REMA found deficiencies in the application, which have not yet been addressed. 2) Not all of the regulated setbacks were shown on the map. 3) No impact analysis was submitted regarding the quality of the existing wetlands resources and how the proposed activities would adversely impact them. 4) The applicant did not find out what significant species is located 100 yards across the street and this was a "fundamental gap" in the application. 5) In its latest report REMA concluded that the proposed site development would likely have adverse impacts to the

wetlands and watercourses and would likely unreasonably pollute and destroy the site's natural resources. Mr. Picton asked for specific adverse impacts. Atty. Hammer said there was no exact narrative for the activities proposed so the specific impacts could not be determined. He stated that the impacts would depend on the type and number of trips of construction equipment, how the driveway is maintained, etc. There would be impacts, he stated, but the degree of the impacts to the quality of the wetlands had not been shown. He asked that the application be denied due to lack of information. He also said per Section 22a-19 of the state statutes since there was the likelihood of a significant impact to the wetlands, the applicant was required to demonstrate to the Commission there are no feasible and prudent alternatives, and pointed out the alternative was having only one house site. Mr. Picton noted Atty. Hammer had not shown there would be a significant adverse impact to the wetlands, only that the applicant had not shown there would not be. He also noted that in his 5/25/05 report Mr. Logan had not stated exactly what the adverse impacts would be. He asked that Mr. Logan cite specific adverse impacts and specific questions for the applicant to address.

Mr. LaMuniere noted the driveway construction was the key issue and asked that the following questions be answered: 1) How will erosion be prevented? 2) How will the driveway be maintained? 3) What is the capacity of the roadbed? 4) How will spills be prevented? Mr. Neff stated cross sections of the proposed road construction had been submitted and the road base was composed of a good quality sand and gravel.

Ms. Purnell questioned why the Commission had asked for more information when a feasible and prudent alternative exists. Mr. Picton responded that the question was whether the proposed activity would result in a significant adverse impact to the wetlands, and if found to be insignificant, the proposed activity might be approved.

The public commented.

Mr. Baiocchi, adjoining property owner, pointed out that an unnamed brook that feeds into Fenn Brook cuts across the property. He agreed with Atty. Hammer that a feasible and prudent alternative to the proposed plan of development exists. He said the existing farm road was used for lightweight farm equipment, not the heavy construction equipment that would be required to build a house. He did not think the applicant was entitled to two "expensive" houses.

Atty. Fisher again stated the small SE lot had not been merged with any other lot, but said it made sense not to develop it. He noted the property owner would place deed restrictions on the sensitive environmental areas. Regarding the construction of the proposed driveway, he stated that minimal excavation was required and there would be virtually no resulting impact to the wetlands or watercourses. He said the proposed activity was not significant and urged the Commission to consider the application as it had other driveway applications in the past.

Mrs. Korzenko and Mrs. D. Hill noted the issue to be considered was the proposed driveway crossing, not the lot line revision, which was a separate application.

There was a brief discussion regarding whether to continue the hearing. Mr. Neff and Atty. Fisher stated the application was complete and all the material requested by the Commission had been provided. Mr. Picton suggested the hearing be continued to give opponents a final opportunity to review and respond to the information submitted this evening. He asked, however, that all new information be submitted a week prior to the next session of the hearing so that the Commissioners would be able to review it.

MOTION: To continue the public hearing to consider

Application #IW-05-12 submitted by The Private

Mortgage Fund, LLC. to construct a driveway at

61 South Fenn Hill Road to June 8, 2005 at 5:45 p.m. in the Land Use Meeting Room. By Mrs. Hill, seconded by Mrs. Korzenko, and passed 5-0.

At 6:54 p.m. Mr. Picton continued the public hearing to Wednesday, June 8, 2005 at 5:45 p.m. in the Land Use Meeting Room, Bryan Memorial Town Hall.

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 7:11 p.m. and seated Members Hill, LaMuniere, Picton, and Purnell and Alternate Korzenko for Mrs. Gray.

MOTION: To add subsequent business not already posted

on the Agenda: 1) New Application: A. Frisbee

Farm Estates, LLC./61 Frisbee Road/#IW-05-29/

First Cut and Development Plan, 2) Other

Business: A. Dolph/219 Roxbury Road/Preliminary

Discussion/Single Family Dwelling, B. Town of Washington/6 Bryan Plaza/#IW-05-16/Replace

Bridge/Request to Amend Conditions of Approval,

C. DEP Aquatic Pesticide Permit: Mayflower Inn,

Rt. 47/Mayflower Pond and 3) Enforcement: Beck/

132 Calhoun Street/2/25/05/Request to Close File.

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

Consideration of the Minutes

The 5/25/05 Regular Meeting minutes were accepted as corrected.

Page 1: Under Also Present: Add: Mr./Mrs. Donnelly, Mr. Tagley.

Page 3: 2nd paragraph: Change first sentence to: ...suitable for the proposed driveway base, which will consist of 16" of medium and coarse sand rising to 40" of depth at the culvert.

3rd paragraph: Change second sentence to: ...from a very restricted location to a site that would meet all Health and Zoning requirements.

4 lines from bottom: Change "corner parcel" to "both properties."

Page 4: 15th line: Add "that" after "consensus."

Paragraph above motion: Change "adjoining property owner" to "neighboring property owner."

Page 5: Throughout: Correct spelling is Mr. Allan.

#11: Add "to superior court" after "appeal."

Page 6: #25: Clarify Mrs. J. Hill.

Page 8: End of 6th line: Mr. Bushnell should be Mt. Bushnell.

Pages 9: second line from bottom and 11: #8: Clarify the total width is 40 feet.

Page 14: 13th line under Sarjeant: Change to: ...largest threat was sediment and runoff from the site....

15th line under Sarjeant: Change "toe" to tow."

Page 15: 4th line under Rosen: Delete "to" after "The court would."

6th line under Rosen: Change "wetland" to "watercourse."

14th line under Rosen: Delete "be planted to."

Page 16: 9th line under Murgio: Change "it" to "there."

Page 17: 3rd line from bottom of long paragraph: Change "would" to "could."

Page 19: Under Herbicide Applications: The term, "instream pond" should be used throughout.

MOTION: To accept the 5/11/05 Regular Meeting/Public

Hearing minutes as corrected. By Mrs. Korzenko,

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

The 5/17/05 Matthews site inspection minutes were accepted as corrected. The correct spelling of perc test was noted.

MOTION: To accept the 5/17/05 Matthews site inspection

minutes as corrected. By Mrs. Hill, seconded

by Mr. Picton, and passed 4-0-1. Mr. LaMuniere

abstained because he had not attended.

The 5/17/05 Myfield, LLC. site inspection minutes were accepted as corrected. The correct spelling of road was noted.

MOTION: To accept the 5/17/05 Myfield, LLC. site

inspection minutes as amended. By Mrs. Korzenko,

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

Pending Applications

**H.O.R.S.E. of Ct./43 Wilbur Road/#IW-04-57E/Construct Sheds and Fence:** It was reported that Mrs. Wahlers had met with Mrs. Johnson and was receptive to the management recommendations made. She agreed to reduce the use of the pastures adjacent to wetlands during the wet seasons, will establish a 35 foot vegetated buffer zone for all watercourses, and will move fences to provide buffer areas. Mrs. Wahlers will submit a revised plan as soon as possible.

**Private Mortgage Fund, LLC./61 South Fenn Hill Road/#IW-05-12/ Construct Driveway:** The public hearing was continued to Wednesday, June 8, 2005 at 5:45 p.m. in the Land Use Meeting Room.

**Stiteler-Giddins/198 Tinker Hill Road and West Shore Road/#IW-05-13/ 2 Lot Resubdivision:** The public hearing was continued to June 8, 2005 at 5:00 p.m. in the Land Use Meeting Room

**Private Mortgage Fund, LLC./61 South Fenn Hill Road and 4 Shinar Mountain Road/Lot Line Revision:** Mr. Neff, engineer, submitted the map, "Proposed Site Development Plan - Boundary Line Revision," by Mr. Neff, revised to 5/25/05, Revision #4. The revisions to the map included; 1) addition of a watercourse, 2) relocation of the stockpile area, and 3) the addition of deed restricted areas. Mr. Neff explained 1.69 acres on the SE corner of the property would be deed restricted where no

construction or cutting of wetlands vegetation would be permitted. Also, a 20 to 40 ft. wide deed restricted strip along the east side of the wetlands, where no wetlands vegetation could be cut was proposed. These restricted areas would be permanently marked on site. The trade-off, he said, would be a building site at the NE corner of 61 South Fenn Hill Road, which would not require a wetlands crossing. Mr. Neff stated this overall plan for the two properties was better than the two existing lots. In response to Atty. Hammer's earlier statement that 4 Shinar Mountain Road did not meet the residential density requirements, Mr. Neff said this lot pre existed that revision of the Zoning Regulations. Ms. Purnell thought there could be more disturbance with a 4 BR house on the NE site than by a 2 BR house on the SE site. Mr. Neff admitted the SE site was tight, but noted the septic system was entirely out of the setback area. He added that the NE site was further from wetlands. Ms. Purnell said approval of the lot line revision would create an interior lot with an access through wetlands. She said this was unprecedented. Mr. Picton pointed out there were many subdivisions approved with wetlands crossings. Ms. Purnell argued that this was different because it was a lot line revision proposed for property, which had already been through the subdivision process. Mrs. Korzenko noted the Commission had recently approved the Matthews lot line revision, which required a wetlands crossing. Ms. Purnell stated that application had a lesser impact and the Commission had always tried to minimize impacts. Mrs. Korzenko said the Commission was charged with balancing the long term protection of the environment with economic development and because the property could support two houses, it should be able to be developed. Ms. Coe asked what would prevent the owners from cutting to create a view of the field. Mr. Picton asked if the owners would object to an easement on both sides of the wetlands, saying he would like to buffer both sides with a no cut zone and to place a note on the map that all activities including cutting of vegetation and disturbance of soil within 100 feet of wetlands are regulated. Mr. Neff did not know whether the owners would agree. Mr. Picton also said it was important to let the meadow on the east side of the property regrow. Ms. Purnell noted the deed restrictions would not be recorded on the land records. Mrs. J. Hill suggested that the recording of the deed restriction be made a condition of approval and Mr. Neff noted the deed restrictions and notes would be placed on the mylar, which would be filed in the Town Clerk's Office. Mr. Picton noted one condition of approval could be that the SE corner lot would not be developed. Most of the Commissioners agreed they were ready to act on the application. Possible conditions of approval included: 1) the ROW on the mylar be labeled right of way for all purposes in favor of the abutting lot to the west, 2) in the area between the central wetlands and the western most building site, a note be placed prominently on the mylar that all activities, including cutting of vegetation and disturbance of soil, within 100 feet of wetlands and watercourses are subject to the jurisdiction of the Inland Wetlands Commission, 3) the edge of the 100 foot regulated area shall be clearly marked during construction, 4) no cutting or removal of native vegetation is permitted within 25 feet of the wetlands, and 5) the Commission chairman shall sign the mylar, which will include all of the above referenced stipulations, prior to filing it on the land records. Mr. Ajello noted that if the lot line revision were approved, the Commission would, in effect, be approving the driveway application, too. Mr. Picton said with the completion of the public hearing and if all the driveway specs adequately provided wetlands protection and the Commission determined there would be no significant adverse impact to the wetlands the driveway application could be approved. It was the consensus to wait until the public hearing for #IW-05-12/Driveway was completed before acting on #IW-05-18/Lot Line Revision. The clerk was asked to write a draft motion of approval based on all the conditions discussed.

**Matthews/142 Upper Church Hill Road/#IW-05-23/Reconstruct and Extend Driveway:** The map, "Soil Erosion and Sedimentation Control Plan," by Mr. Neff, dated 5/6/05 was reviewed. Mr. Neff said there had been no revisions since the last meeting. Mr. Picton noted while on the site inspection, the Commissioners had not been able to find the property line and so had not been able to determine whether there were wetlands in the vicinity of the new house site. Mrs. Matthews said it would not be



known exactly where a new house would be built until the lot is sold. Ms. Purnell noted if there was no agreed upon location for the house, the driveway extension might ultimately need to go in a different direction than that applied for in the current application, resulting in needless clearing. Mr. Neff briefly discussed the proposed driveway work. Repairs would be done to the existing 10 ft. wide surface, 6" of gravel would be added on top, and one culvert would be installed, but no shoulders were proposed. Mr. Picton suggested the Commission act on the driveway repairs first and on the driveway extension when a site development plan is finalized. He asked that the center line of the driveway and property line be flagged so that either he or Mr. Ajello could make a more informed inspection prior to the next meeting.

**Rosen/302 Nettleton Hollow Road/#IW-05-24/Tennis Court:** Mr. Sabin, landscape architect, represented the applicant. He noted at the site inspection the area below the court and the recharge gallery had been discussed. Mr. Sabin pointed out the exact area where he proposed to remove invasive species, what native species would be planted, and where the beds and lawn would be located. He noted the regrading required for the pool installation would come to 30 feet of the wetlands and 40 feet of the stream. Mr. Picton noted there would be a 28% slope and asked if there was any way to get the filled slope away from the stream. He, Mrs. Korzenko, and Ms. Purnell thought deposition of fill only 30 feet from the wetlands could cause potential impacts and suggested that alternative locations be investigated. Mr. Sabin said he wanted to keep the filled area away from the septic area and to make it mowable, but said he could move it back 8 feet, increase the distance of the top of the slope to the stream to 55 feet, and move the recharge gallery up slope. Mr. Sabin noted the paved part of the court would be 70 feet from the wetlands. Mr. Picton and Ms. Coe noted there is an alternate site for the court up the hill behind the house. Mr. Sabin said the owners want to use the existing accessory building near the proposed court as a recreational facility. Maintenance requirements were briefly discussed. Ms. Purnell noted if the lawn was eliminated there would be no need for herbicides. Mr. Picton asked Mr. Sabin to submit an improved plan that would keep the proposed activity as far as possible from the wetlands and stream because the Commission was not comfortable with the current one. It was also noted the DEP form had not been submitted.

**Myfield, LLC./7 Mygatt Road/#IW-05-25/10 Single Family Dwellings:** Mr. Boling and Mr. Worcester represented the applicants. They submitted the revised map, "Site Analysis Plan," by Mr. Alex with buildings, roads, and grading added by Mr. Worcester, revised to 5/23/05. The revisions made were based on comments made at the site inspection voicing concern about the proximity of the proposed structures to the wetlands. The row of the seven larger houses was moved 30 feet farther from the wetlands, which reduced the amount of excavation required on the hillside. Mr. Worcester pointed out the silt fence line, which was the proposed limit of disturbance and noted now three of the buildings were completely outside the regulated area. Mr. Boling said there would be no clearing beyond the stone wall where a conservation easement area would be located. Ms. Purnell asked that a written list of the revisions made be submitted for the file. Mr. Boling explained porches had been added to the dwellings so the lot coverage had increased slightly and the lot envelope had increased so the open space area decreased to 75%. Mr. Picton stated he preferred there be no structures or soil disturbance within 100 feet of the wetlands. Mr. Boling said the applicants were trying to preserve the viewshed and the farm field and balance these with the need to preserve the wetlands. Alternatives were briefly discussed. It was noted the property could be subdivided into three lots with three dwelling units each. Mr. Picton noted another alternative would be to delete one or two houses. Mr. LaMunier asked that the property be more clearly marked so that members could go out again individually before the start of the public hearing. Mr. Picton said the application would be referred as soon as possible to Land Tech for a review, which would include an impact assessment and drainage review, and asked Mr. Ajello to draft a letter of instruction to accompany the application materials. Mr. LaMunier noted the application included a plan by Mrs. Corrigan for the removal of the invasive species and asked if this

would be the responsibility of the homeowners' association. Mr. Boling noted a rough draft of the proposed conservation easement had been submitted.

**Murgio/21 New Preston Hill Road/#IW-05-26/Clear Brush:** Mr. Ajello said he had inspected the property and thought the proposed clearing would have no significant impact on the wetlands. He noted when the lot is developed and a complete driveway proposed, a second application will be submitted. The clearing would be done by hand, the brush piled on the property, and would come within 30 feet of the wetlands. Mr. Picton asked if there was a better alternate location for the driveway that did not come so close to the wetlands. Mr. Ajello said that the driveway location was limited due to stone walls and ledge. The map, "Property/Boundary Survey, First Cut," by Mr. Alex, dated May 2005 and the map detail showing the portion of the right of way to be cleared were reviewed. Mr. Picton asked that the entire 50 ft. width of the right of way not be cleared and Mr. Charles noted he was applying for only a 15 ft. wide path. Mr. Picton asked him to draw in the 15 ft. wide corridor on the map, label, and date it.

MOTION: To approve Application #IW-05-26 submitted by

Mr. and Mrs. Murgio to clear brush for a 12 ft.

wide driveway access at 21 New Preston Hill

Road per the drawing amended on 5/25/05 by Mr.

Charles. By Ms. Purnell, seconded by Mr.

LaMuniere, and passed 5-0.

New Applications

**Adams/214 West Shore Road/#IW-05-27/Replace Drainage Pipe:** Mr. Neff, engineer, was present. The map, "Driveway Drainage Improvements," by Mr. Neff, dated 4/25/05 and photos of the current conditions were reviewed. Mr. Neff stated the new pipe and culvert are needed because the existing pipes are too small and keep plugging up. Ms. Purnell asked if a maintenance schedule was proposed. Mr. Picton asked that a note be placed on the plan stating that yearly cleaning of the catch basin is required. Mr. Ajello will inspect the site prior to the next meeting.

**Calhoun Street Trust/62 Calhoun Street/#IW-05-28/Guest House and Driveway:** Mr. Neff, engineer, reviewed the proposal to construct a guest house and driveway on the northern part of the property in an open mowed field. He said no wetlands crossing was required. A site inspection was scheduled for Wednesday, June 1, 2005 at 4:00 p.m. Mr. Picton asked that a larger scale map be submitted.

**Frisbee Farm Estates, LLC./61 Frisbee Road/#IW-05-29/First Cut and Development Plan:** Mr. Ajello noted this application had been submitted too late to review before the meeting. Mr. DePecol submitted a revised set of maps, "Proposed First Cut Map," by Mr. Howland, 9 sheets, dated 5/23/05 (some sheets revised to 5/25/05). He proposed the creation of three large lots from the 66 acre parcel, which, he said, according to the density calculations, could be divided into eight lots. He said he would donate a conservation easement to Steep Rock. Ms. Purnell asked if there was any way to access the proposed lot without crossing wetlands or if a bridge could be considered. Mr. DePecol stated a bridge was not feasible. Mr. Picton asked whether there were any other possible building sites that would not require a wetlands crossing. He said the Commission must consider the best protection of the wetlands and not where the applicant prefers to place conservation easements. Mr. DePecol stated under the three lot proposal, the only way to access the first cut lot required a wetlands crossing. Ms. Purnell requested a feasibility plan for the 8 lot scenario as part of the review of feasible and prudent alternatives. Mr. DePecol briefly reviewed the proposed driveway plans, pointing out the locations of the crossings where culverts are required. A site inspection was scheduled for Wednesday, June 1, 2005

at 4:45 p.m.

#### Other Business

**Dolph/219 Roxbury Road/Preliminary Discussion/Single Family Dwelling:** Mr. Dolph noted he wants to build a house with a larger footprint than the one originally approved by the Inland Wetlands Commission. However, the property owner did not come to the meeting with the plans and so the discussion could not take place.

**Town of Washington/6 Bryan Plaza/#IW-05-16/Replace Bridge:** Mr. Sears read his 5/24/05 letter in which he stated the Town could not comply with condition #1 of Permit #IW-05-16 and asked that the condition be removed so the project could proceed. He proposed a bridge made of pressure treated material, which would be sealed off site. Mr. Picton noted this would be the "new" pressure treated wood that was not as dangerous as the old type, that the minute amount of leachate would be quickly diluted, and that the bridge would not be in the water or on wet ground. Ms. Purnell voiced her concern about the fresh water organisms that are sensitive to the chemicals that leach from the pressure treated wood. Mr. LaMuniere asked if the railings could be metal and Ms. Purnell asked if recycled materials could be used. Mr. Sears said the structure proposed is prefab. He noted he had attached 18 pages of information on the standards for the treatment of pressurized wood and asked the Commission to review it before the next meeting. Mr. Ajello was also asked to review and comment on the information.

#### Enforcement

**Feola/Carmel Hill Road/Excavation in Wetlands:** Mr. Ajello noted the details of this matter were provided on page 2 of his enforcement report. Mr. Feola was present and stated he had cleared the understory and "cleaned the forest floor" on his property and had been unaware there were any wetlands in this area. He said the Health Department had been on site and had not indicated to him there were wetlands and his licensed septic installer said based on the perc tests, he found it was difficult to believe there were any wetlands on the property. Ms. Purnell noted the Town Sanitarian is not a soil scientist. He said there was an old well that he removed because it was a safety hazard and that he thought the vernal pools the Commission thought he filled were in the rear of his property. Ms. Purnell noted there is an extensive vernal pool system in the area. Mr. Feola agreed there are vernal pools across the street, but stated his property had no connection to them. Mr. Feola submitted a map, "Property Survey," by Berkshire Engineering, dated 4/8/05, which showed the location of the old stone well. He noted before he had excavated there had been an impression, which collected runoff. Mr. Picton noted the soils map showed a swamp symbol for this location and that the Commission was still waiting for vernal pool information from Mrs. Corrigan. He asked the Commissioners to inspect the property on their own prior to the next meeting.

**DEP Pesticide Permit Application:** It was noted this application was for the Mayflower Pond, which is an instream pond. In general the Commission does not support the use of chemicals in streams and asked the clerk to send a letter to the state and to the property owner to explain alternate measures that can be taken.

**Croasdaile/67 River Road:** Mr. Ajello said he had written to Mrs. Croasdaile to request an application and plans for preventing the erosion of the steep slope.

**Beck/132 Calhoun Street:** Mr. Beck had sent a letter to the Commission stating the invasives had been removed as ordered and asking that the file be closed on this matter. Several Commissioners thought the property was supposed to be monitored for invasives for three years. It was noted a final report from Mrs. Corrigan, botanist, had not been submitted. Mr. Ajello will review the file and list all the information needed and inspect the site before the next meeting.

**Washington Montessori School/240 Litchfield Turnpike:** Mr. Ajello noted Mr. McNaughton will attend the next meeting to discuss the completion of the work done and the release of the bond. Mr. Picton asked Mr. Ajello to inspect the property and the vernal pools prior to the next meeting.

**Fowler/Nichols Hill Road:** There has been no new information submitted since this issue was last discussed. Mr. Ajello was asked to contact Mr. Fowler directly.

**Carter/292 Walker Brook Road:** There has been no new information submitted.

**Logging Operation/Romford Road:** It was noted Mr. Cannavaro had complained to the Land Use Office about this activity. Mr. Picton asked Mr. Ajello to monitor the project and check the erosion controls and to make sure it is progressing as approved.

**Bolek/East Shore Road:** Mr. Ajello said he had reviewed this file with Mr. Bolek and had asked him to draw up a proposal.

**Hill/71 River Road/Removal of Invasives:** Mrs. D. Hill said she would like to cut the Japanese knotweed growing at the edge of her property, but noted there is a small stream in the vicinity. Ms. Purnell recommended the application of an herbicide to the stem. Mrs. Hill said she had planned to cut it. Mrs. Korzenko thought, and the other Commissioners agreed, this could be considered landscaping maintenance and asked the EO to monitor the work done.

**Pinover/Senff Road:** Mr. Ajello had been asked to inspect the property because the Commission was not sure which pond the Pinovers proposed to apply pesticides to. Mr. Picton asked him to check this out so that the Commission can respond to their letter.

**Town of New Milford/Walker Brook Farm Subdivision/Rt. 109:** Mr. LaMunier and Ms. Purnell attended the 5/12/05 public hearing and noted the next session is scheduled for June 9th. They will work further on specific questions and recommendations, but complained so far they have received only vague answers to questions raised.

**Seminar:** It was noted there would be a stormwater management seminar in Cornwall on 5/26/05.

**MOTION:** To enter into Executive Session at 10:29 p.m. to

Discuss pending litigation: Reinhardt/10 Perkins

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

**MOTION:** To close Executive Session at 10:44 p.m. By

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

**MOTION:** To adjourn the meeting. By Mrs. Korzenko.

Mr. Picton adjourned the meeting at 10:50 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill

Land Use Coordinator