

June 8, 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. Sabin, Mr./Mrs. Ernhout, Mr./Mrs. Frank, Mrs. Sutter, Mr. Kleinberg, Atty. Sienkiewicz, Mrs. Weeks, Mr./Mrs. Klein, Mr. McGowan, Atty. Kelly, Ms. Baechle, Mrs. Mitchell, Atty. Fisher, Mr. Fenwick, Mr./Mrs. Baiocchi, Atty. Hammer, Mr. Fowlkes, Mr. Boling, Mr. Egan, Mr. Worcester, Mrs. Ward, Mr. Ross, Mr. Charles, Mr./Mrs. Papsin, Mr./Mrs. Corrigan, Mr. Cornett, Mr. Mustich, Mr./Mrs. Donnelly, Mr. Sears, Mr. Meeker, Mr./Mrs. Whalen, Mrs. Croasdaile, Mr. DePecol, Mr. Szymanski, Mr. McNaughton, Mr. Wellings, Ms. Baldwin, Mr. Tagley, Mr. Antonios, Residents, Press

PUBLIC HEARINGS

Stiteler-Giddins/198 Tinker Hill Road and West Shore Road/ #IW-05-13/2 Lot Resubdivision

Mr. Picton reconvened the public hearing at 5:05 p.m. and seated Members Hill, LaMuniere, Picton, and Purnell and Alternate Korzenko for Mrs. Gray.

Both Atty. Kelly and Atty. Sienkiewicz submitted letters dated 6/8/05 summarizing the comments they made at the last session of the public hearing.

Ms. Purnell referenced the following documents for the record: 1) **Wetlands**, 3rd Edition, William Mitsch and James Gosselink, 2000 and 2) **Wetlands Indicators - A Guide to Wetland Identification, Delineation, Classification, and Mapping**, Ralph W. Tiner, 1999.

Mr. Neff, engineer for the applicants, stated he had nothing new to submit and briefly summarized how he had addressed the Commission's concerns. Mr. Sabin, landscape architect, commented on the proposed maintenance of the site; 1) deer fence protection for the first two years, 2) watering of the plants for the first growing season, 3) brush hogging of the vegetative filter buffer strips every two to three years, 4) brush hogging around the septic and house sites once a year and 5) annual leaf clean up around the house and along the driveway. No lawn was proposed, but Mr. Sabin said leaf clean up was needed due to the planting beds. He said there would be a short grass meadow around the house to suppress woody growth.

Atty. Sienkiewicz referred to Sheet #2 of Mr. Sabin's 5/19/05 landscaping plan. He said although only a 20 foot swath was supposed to be disturbed for the driveway and the silt fence was supposed to be the limit of disturbance, this plan indicated there would be planting beyond the silt fence and in an intermittent watercourse. He suggested that if the application were approved, this planting should be reduced in scope. He voiced his concern the owners would eventually try to clear the property for "elbow room" and a view of the lake. He noted any clearing would tend to dry out the wetlands by letting more sunlight in. He said the applicant had not submitted before and after drainage calculations and so the Commission had no "tools" with which to make a decision. He concluded that the proposed development site was the "worst spot" to put a house and driveway because it is so wet.

Mrs. Weeks noted she had mailed the Commission additional information for the record: her letter dated 5/31/05, excerpts from **A Sierra Club Naturalist's Guide, Southern New England** by Mr. Jorgensen, pp. 248-298 and plates V-VII, and five photos taken on the subject property on 5/27/05. She stated the photos had been taken after a heavy rain and noted the water in the area of the proposed driveway remained there for three days before it was absorbed.

Mr. Frank, the President of the Lake Waramaug Assoc., said he would not speak for or against the application, but for the protection and preservation of Lake Waramaug. He said the Commission should not accept any preventable environmental damage to the lake.

Mr. McGowan, consultant for the Lake Waramaug Country Club, stated the property was one of two areas adjacent to the lake where there is a close relationship between the groundwater and the water in the lake. Therefore, he stated, the health of Lake Waramaug was more directly at risk as a result of development on this site than it would be from development on other sites near the lake. He pointed out the location of terrace soils with 15% slope on the colored map, "Lake Waramaug Watershed" and noted although the proposed lot is 12 acres, it has only three non contiguous acres of non wetlands soils. Considering the water interplay issue in this area, he did not think the mitigation proposed was sufficient. He asked for a comprehensive stormwater management plan, not just for the proposed lot, but for the entire surrounding area. He noted his concerns about the proposed curtain drain for the septic system. He asked the Commission whether it would be practical to enforce all the conditions that would be needed to guarantee there would be no impact to the lake.

Atty. Sienkiewicz disputed Atty. Kelly's statement that since the Commission did not rule the proposal was a significant activity, it was not required to consider feasible and prudent alternatives. He advised the Commission that according to the Inland Wetlands Regulations, if a public hearing is held, feasible and prudent alternatives must be considered. Mr. Picton said he considered the activity to be significant, as evidenced by the three sessions of the public hearing to consider it. Ms. Purnell stated it was not relevant whether the Commission found the proposed activity to be significant as it was considering feasible and prudent alternatives anyway.

Mrs. Sutter raised four questions/points: 1) the beach area below the property is very shallow and collects a lot of sand that washes into it, 2) a 3000 sq. ft. house is not a small house as was claimed by the applicants, 3) how would a meadow be created in a woodland, and 4) would the applicants install a water system?

Ms. Baldwin noted for the record the 5/29/05 **Voices** article, which quoted the Roxbury Inland Wetlands Comm. chairman as saying that work could not be done within 50 ft. of a watercourse without an impact to that watercourse. She added that if any activity was allowed, the Commission must carefully monitor it and prohibit the use of heavy equipment.

Mr. Neff responded to Mr. McGowan's remarks. He stated the proposed curtain drain was a standard procedure, had been approved by the Health Department, was not prone to operating problems, and work upgrade of the septic would have to be substantial to change the groundwater flow in this area. Mr. Neff said he had considered a groundwater containment system, but the high water table made it impossible, so he proposed the above ground vegetative filter buffer strips on both sides of the driveway. He noted the proposed discharge area was flat so that the flow would slow and the sediment would settle before the runoff reached the lake. He said the owners had agreed to all the limitations suggested by the Commission and knew this was a very limited site.

Mr. Sabin briefly responded to Atty. Sienkiewicz's points about the planting plan. He stated all the planting would be done by hand and that the plantings would extend beyond the silt fence because he was trying to achieve a transition area between the buffer strip area and the woods. He said no additional trees needed to be cut in order to put in these plants.

Mr. Wellings thought if approved, the property owners should be required to post a million dollar bond for twenty years.

Mr. Talbot, architect, stated the proposed house was not 3000 square feet; it was one story and approximately half that size. Mr. Neff said, and Mr. Talbot agreed, that revised plans had been

submitted at the last meeting and that the house would be located within the existing staked area on site.

Ms. Purnell referenced both the original Stiteler-Giddins application for the main house on Tinker Hill Road and the ASDA soils map for the file in case this had not previously been done.

MOTION: To close the public hearing to consider

Application #IW-05-13 submitted by Mr. Stiteler

and Ms. Giddins for a 2 lot resubdivision at

198 Tinker Hill Road and West Shore Road. By

Mr. Picton, seconded by Mrs. D. Hill, and

passed 5-0.

At 5:53 p.m. Mr. Picton closed the public hearing.

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

Mr. Picton reconvened the public hearing at 5:56 p.m. and seated Members Hill, LaMuniere, Picton, and Purnell and Alternate Korzenko for Mrs. Gray.

Mr. Picton noted the new documents in the file: 1) the 5/30/05 memo to the Commission from Mr. Bedini, which analyzed the adequacy of the culvert and found it to be safe, 2) the 6/1/05 letter from Mr. Neff, which also analyzed the culvert and found it was safe, and 3) 6/8/04 fax from Atty. Hammer, which included the 6/7/05 letter from REMA concerning potential impacts to wetlands and watercourses. Mr. Neff also submitted a letter dated 6/8/05, which stated the proposed driveway construction would not adversely impact the wetlands and watercourses.

Atty. Fisher submitted a letter dated 6/8/05, which addressed comments Atty. Hammer made at the last session of the hearing. He stated 1) impacts to wetlands and watercourses would be minimal, 2) lot line revision issues were for the Zoning Commission to consider unless they relate to inland wetlands or watercourses, 3) the Commission had approved many other driveways in the regulated area throughout the years, and 4) Mr. Antonios had agreed to impose deed restrictions on the SE corner of the other lot to protect against future impacts to the wetlands.

Mr. Picton asked if the deed restrictions were shown on the map. When Atty. Fisher responded they were on the map submitted for the proposed lot line revision, Mr. Picton asked that the same map be submitted for both applications. Atty. Fisher agreed. Mr. Picton stated he wanted all the measures proposed for wetlands protection in the lot line revision application, #IW-05-18, incorporated in the driveway application.

Atty. Hammer made the following statements: 1) The application must be denied because there were feasible and prudent alternatives. 2) There was insufficient information submitted upon which to base a decision; no report from an environmental expert, a lack of base line data and analysis, no assessment of the impact that would be caused by runoff, omission of a watercourse on the map, no report on the quality and function of the existing watercourse, lack of data on species of concern; the REMA report noted a bobolink had been seen on the property, and the impacts of the use of heavy equipment and future maintenance had not been addressed. 3) The applicant did not legally have two building lots.

Atty. Fisher reminded the Commission the application was for a very limited activity, a driveway over an existing culvert, and that it was common sense that the impacts would be negligible. Mr. Picton agreed that although the REMA report claimed there was the likelihood that the driveway would adversely impact the wetlands and watercourse, it had not provided the Commission with specific

information about what the impacts would be.

For the record Mr. Neff listed his credentials, which included licensed engineer and a director of the Roxbury Land Trust.

Atty. Hammer noted the REMA report stated the bobolink, a species of concern, prefers wetlands habitats. Ms. Purnell noted the Natural Diversity Data Base Map showed a species of concern on the property across the street, and asked what it was. Mr. Neff did not know. He pointed out, however, that he had attached a map to his 5/25/05 letter, which showed the species of concern was clearly located outside the area where the activity was proposed.

MOTION: To close the public hearing to consider

Application #IW-05-12 submitted by the Private

Mortgage Fund, LLC. for a driveway at 61 South

Fenn Hill Road. By Mr. Picton, seconded by

Mrs. D. Hill, and passed 5-0.

At 6:22 p.m. Mr. Picton closed the public hearing.

Myfield, LLC./7 Mygatt Road/#IW-05-25/Ten Single Family Dwellings

Mr. Picton called the public hearing to order at 6:25 p.m. and seated Members Hill, LaMunier, Picton, and Purnell and Alternate Bedini for Mrs. Gray. Mrs. D. Hill read the legal notice published in the **Waterbury Republican** on 5/26 and 6/4/05.

For the record, Mr. Picton referenced the list of 24 documents that were in the file and noted the applicant's power point presentation would also be included.

Mr. Boling and Mr. Worcester represented the applicants.

Mr. Picton noted the Commission has jurisdiction only over wetlands issues.

Mr. Boling gave a power point presentation, which included the following topics; affordable housing regulations, the reasons this parcel was selected for the proposed development, how the proposed plan meets the Town goals, description of the current site conditions, the development potential of the property, and how the proposal balances conservation and development goals. Mr. Boling said the original proposal had been for 12 houses, but had been decreased to 10; 7 market value and 3 affordable dwellings. In the current plan, 3.06 acres of the 13.54 acre parcel would be developed with 1.16 acres or 8.56% impervious surfaces and 77% preserved as open space. Mr. Boling said there would be no casual violations of the Inland Wetlands Regulations by the residents because the homeowners' association would monitor activities. He briefly described the plans for narrow gravel driveways, a stormwater management system with two detention basins, and vertically stacked utility conduits to limit the disturbance. He stated no activities were proposed in any wetlands and no crossings were proposed. Under the proposed conservation easements, 81% of the upland review area would be protected. Mr. Boling pointed out the limited construction proposed in the upland review areas and said he thought the proposed conservation easement, which would protect all of the wetlands, was a sensible "trade-off."

Ms. Purnell asked to review the draft association rules. Mr. Boling said they had not yet been written, but that he welcomed comments and suggestions.

Mr. Boling addressed the precedent of allowing new construction in the upland review area. He suggested that under certain circumstances, such as the existence of poor quality wetlands, if no crossings were proposed, if open space would be preserved, if wetlands would be protected by

easements, if the development plans met the goals of the Town's Plan of Conservation and Development, etc., the Commission could then approve activities in the upland review area.

Mr. Boling presented an alternate plan, "Alternate Site Analysis Plan," revised to 6/2/05 that was based on input from the last meeting. This plan moved the buildings further into the existing field so that they met the 100 ft. setback requirement. He did not favor this plan, however, because the applicant's goal was to preserve both the view and the agricultural soils. Also, one of the proposed detention basins had been relocated.

Mr. Picton asked if the runoff would overflow the basin. Mr. Boling said it would overflow in the direction of the wetlands. Mr. Worcester noted it was a metered drain.

The public had the opportunity to comment.

Mr. Tagley, resident of Quarry Ridge, complained about the non wetland issue comments that had been made by the applicants and said he had hired an attorney to review the application. He asked that the public hearing be continued so the public would be able to review the revised plans, which had just been submitted. Mr. Picton advised him the hearing would be continued in order to receive a review by Land Tech Consultants, but that he did not expect that report to be ready before the next meeting date on June 22nd. If necessary, he said the hearing would be continued beyond June 22nd.

Ms. Baechle submitted a petition with 34 signatures against the application plus written material for the record.

Mrs. Papsin said she thought so much of the property was being preserved because it was unbuildable. She objected to the applicant referring to Marbledale as a village center and asked if the Town would make a major investment in the upgrade of Mygatt Road. She also asked if the drainage issues in the area had been addressed. Mr. Picton responded that the Wetlands Commission has jurisdiction only over wetlands and watercourses.

Mrs. Matthews submitted a paper dated 6/8/05 regarding septic system and health issues.

Mr. Etherington spoke against the application saying it was an ecological disaster and had many design faults. He said he was against building houses in a ravine near a brook.

Ms. Thomas thought the project could be a disaster and cautioned the Commission to act carefully so it did not make a mistake.

Mr. Picton again noted the hearing would be continued and urged the public to submit written statements.

Mr. LaMunier asked if the alternate plan were approved, how much of the field would be lost; he didn't think it looked like much of an impact. Mr. Boling said he would get this figure, but pointed out the impact would be visual.

Mr. Picton asked if there was an alternate plan to move the affordable houses farther from the wetlands. Mr. Boling said there was not and that these units would be built at a loss and so had to be physically separated from the market units for economic reasons. Mr. Worcester said some alternate plans would require the relocation of the septic system to the regulated area.

Mr. Tagley again complained that the hearing was being tainted by subject matter not under the Commission's jurisdiction.

Mrs. Papsin stated the price of the affordable units would be well over the price given by **Time** as the average price in the US. Mr. Picton asked that the public comments be limited to wetlands issues.

Ms. Purnell asked whether due to the relocation of one of the detention basins, water would be taken

from one watershed to the other. She asked for an analysis of the drainage and the sub basins.

Mr. Etherington said drainage is a serious concern as a few years ago the stream had taken out Wheaton Road. He asked the Commission to go look at the site because it is unbuildable. Mr. Picton pointed out he was referring to the lower ravine area, where no buildings were proposed.

Mr. LaMuniere asked how much less disturbance would be required for the alternate plan. Mr. Worcester said it would be substantially less.

MOTION: To continue the public hearing to consider

Application #IW-05-25 submitted by Myfield, LLC.

to construct ten single family houses at 7

Mygatt Road to 6:00 p.m. on Wednesday, June 22, 2005

in the Land Use Meeting Room, Bryan Memorial Town

Hall. By Mrs. D. Hill, seconded by Mr. Picton,

and passed 5-0.

At 7:18 p.m. Mr. Picton continued the public hearing to 6:00 p.m. on Wednesday, June 22, 2005 in the Land Use Meeting Room.

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

REGULAR MEETING

Mr. Picton called the Regular Meeting to order at 7:25 p.m. and seated Members Gray, Hill, LaMuniere, Picton, and Purnell.

MOTION: To add subsequent business not already posted

on the agenda: New Application: Calhoun

Street Trust/62 Calhoun Street/#IW-05-33/

Rebuild Pool Wall and Extend Parking Area and

Communications: Wetlands and Wildlife Seminar/

Sessions Woods/6/14/05. By Mr. Picton, seconded

by Ms. Purnell, and passed 5-0.

Consideration of the Minutes: The 5/25/05 Public Hearings-Regular Meeting minutes were accepted as amended:

Page 2: 1st paragraph, #6: Change to: The length of stonewall was corrected.

1st paragraph, #1 under revs to the erosion control plan: Change to piles along the driveway.

Page 5: End of 5th line: After "property: add: during the first application.

End of 1st paragraph: Add sentence: Ms. Purnell asked a question regarding the lake access for the large lot and the new lot.

Page 9 and throughout: Change "toe" to tow of slope.

Page 10: 3rd sentence: Change: wetlands vegetation to native vegetation.

Page 11: Middle of page: Change the sentence to: Mr. Picton also said it was important that the owners

had proposed to let a strip of the meadow on the east side of the wetlands regrow.

Page 13: 17th line under Myfield: Change lightly to slightly.

Page 15: 8th line from the bottom: The spelling of diluted was corrected.

Page 16: 14th line under Feola: Add to the sentence ending in "area:" and it is shown on the Natural Resource Inventory Report map for vernal pools, which had been circulated.

19th line under Feola: Change impression to depression.

Page 17: 4th line under Hill: Insert: to the "cut" stem.

3rd line under Pinover: Change pesticides to herbicides.

4th line under Walker Brook Farm: Change complained to commented.

MOTION: To accept the 5/25/05 Regular Meeting minutes

as corrected. By Ms. Purnell, seconded by Mr.

Picton, and passed 5-0.

MOTION: To accept the 5/17/05 Rosen Site Inspection

minutes as written. By Mr. Picton, seconded

by Ms. Purnell, and passed 5-0.

MOTION: To accept the 6/1/05 Calhoun Street Trust Site

Inspection minutes as written. By Mrs. D. Hill,

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

MOTION: To accept the 6/1/05 Frisbee Farm Estates Site

Inspection minutes as written. By Mrs. Gray,

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

Pending Applications

H.O.R.S.E. of Ct./43 Wilbur Road/#IW-04-57E/Construct Sheds and Fence: Mr. Ajello said he had inspected the property and Ms. Wahlers had installed hundreds of feet of fencing to separate the pasture from the watercourse, had seeded much of the disturbed area, and had relocated many of the animals to the hill. She submitted a map and documents earlier in the day, but Mr. Ajello had not had time to review them. He noted recent water tests by Montessori School showed very high E. coli content, but he thought this was due to the recent regrading and fence installation. The Commission thought great progress had been made and hoped by the next meeting the property would qualify for an agricultural exemption because the activities would no longer be impacting the wetlands. Mr. Ajello will continue to monitor the progress and will make sure a summary of the work completed has been submitted.

Private Mortgage Fund, LLC./61 South Fenn Hill Road/#IW-05-12/Construct Driveway: Mr. Picton seated Alternate Korzenko for Mrs. Gray. He noted Mr. Bedini had prepared a review of the issues and how they had or had not been addressed and possible conditions of approval. The map, "Proposed Site Development Plan," by Mr. Neff, revised to 5/25/05, Revision #4, was reviewed. Mr. Picton read Mr. Bedini's 6/8/05 review of the application. Ms. Purnell made a motion to deny the application because there were feasible and prudent alternatives; a building site in the east corner of the property, which would require no wetlands crossing. There was no second. It was the consensus the possible conditions listed in the report would be a constructive framework in which to begin discussion

of the application. There was a lengthy discussion about whether the application should be approved and if so, what, if any conditions should be incorporated. Mr. LaMunier stated there was no evidence there would be significant damage to the wetlands by the proposed driveway; the culvert was existing and according to Mr. Neff was "solid," and that the conditions discussed would provide additional protection to the wetlands. Ms. Purnell stated the Commission approved other driveway crossings, but only when they were the only means to access the property or were an alternative that would have less impact to the wetlands. Mrs. Korzenko said the crossing had existed for over 40 years, had been previously used for agriculture, which was more harmful to the wetlands than the proposed residential use, and that in all the years the driveway had existed, it had never been considered a significant activity. Mrs. Korzenko also pointed out that the conservation easements proposed and conditions being considered would be more beneficial to the bobolink than the preservation of the proposed house site. Mr. Picton did not think it had been demonstrated there would be unreasonable impacts to the wetlands as a result of the driveway improvements, especially with the conditions being considered. He thought the minimal chance of an adverse impact was offset by good planning. Ms. Purnell asked if he was discounting that the existing crossing constricts the wetlands. Mr. Picton responded that the crossing had been installed many years ago and there would be significant short term impacts to remove it. He did not consider the proposed driveway improvements to be a significant activity.

MOTION: To approve Application #IW-05-12 submitted by

The Private Mortgage Fund, LLC. for a driveway

crossing at 61 South Fenn Hill Road per the

material submitted for the public hearing

record and the site development plan labeled,

"Boundary Line Revision," by Mr. Neff, revised

to 5/25/05, Revision #4, showing proposed deed

restricted areas to protect the wetlands

subject to the following conditions:

1. In the area between the central wetlands and

the western most building site shown on the

above referenced map, a note shall be

prominently placed on the mylar stating that

all activities, including the cutting of

vegetation and disturbance of soil, within

100 feet of wetlands and watercourses require

a permit from the Inland Wetlands Commission.

2. The edge of the 100 foot regulated area shall

be clearly and permanently marked in the field

prior to the start of construction.

3. The driveway surface shall remain a stable gravel surface and shall not be paved within 100 feet of wetlands.

4. A guard rail or fence shall be installed along the driveway within 5 feet of the edge of a maximum 12 foot wide travel way where it passes within 25 feet of wetlands to limit the expansion of shoulder and landscaped area toward and into wetlands.

5. Native vegetation shall be allowed to grow undisturbed within 30 feet of all wetlands and watercourse areas, with the exception of the driveway route as detailed above.

6. Inland Wetlands Commission authority encompasses any clear cutting of vegetation, whether under-story or canopy, and disturbance of soil within 100 feet of all wetlands and watercourses. Such activities require a wetland review and in most cases a permit.

7. Ground disturbance for construction of retaining walls at the culvert shall not extend wider than the length of the existing culvert.

8. The conditions of this approval shall be shown as directed and listed on the mylar along with the following note: Restricted areas and other wetland protection provisions as shown or listed on this map per the conditions of approval constitute a deed restriction to run with the land in perpetuity. The chairman shall sign the mylar after ensuring that all of the above referenced conditions are incorporated. The mylar shall be filed by the Town Clerk on the Town Land Records prior to issuance of the permit.

By Mr. Picton, seconded by Mrs. Hill and passed

4-1. Ms. Purnell voted No because 1) a feasible and prudent alternative exists, which is a house site that does not require a wetlands crossing, 2) the existing watercourse crossing constricts the wetlands, 3) construction of the proposed

driveway will cause long term impact to the wetlands, especially during the winter when plowing is done and because the construction will allow two building sites when previously there was one legitimate large scale building site, 4) although nothing is presently proposed, there is the potential for future encroachments at the second building site, and 5) the two large scale building sites will impact in perpetuity the high water quality of the watercourse that has a high diversity of benthic macrofauna as documented in REMA's 5/25/05 report.

For the majority, Mr. Picton summarized the application had been approved because there was not a reasonable likelihood of a significant impact to the wetlands and watercourses because the driveway would be constructed according to the plans submitted and the conditions of approval specified in the motion.

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

2 Lot Resubdivision: Mr. Picton asked the Commissioners to review the documents in the file. Discussion was tabled to the next meeting.

Private Mortgage Fund, LLC./61 South Fenn Hill Road and 4 Shinar Mountain Road/Lot Line Revision: Mr. Picton noted Alternate Korzenko was seated for Mrs. Gray. The map, "Proposed Site Development Plan, Boundary Line Revision," by Mr. Neff, revised to 5/25/05, Revision #4, was reviewed. Ms. Purnell asked if the question of whether there were two existing legal lots had been settled. Mr. Picton responded that was not a wetlands issue. Mr. Ajello agreed the Inland Wetlands Commission would act on the concept and then the application would go to the Zoning Commission. Mr. Picton thought the application would prevent a marginal site in the SE corner of the property from being built on in the future. Ms. Purnell disagreed because she thought a smaller house even though closer to the wetlands, might have less impact than a larger house farther from the wetlands. The proposed deed restriction was discussed. Atty. Fisher stated it would have the same effect as a conservation easement and it referenced the map so it was enforceable and subject to all notes, legends, and restrictions on the map. Conditions of approval were discussed.

MOTION: To approve Application #IW-05-13 submitted by the Private Mortgage Fund, LLC. for a lot line revision at 61 South Fenn Hill Road and 4 Shinar Mountain Road per the proposed site development plan, "Boundary Line Revision," by Mr. Neff, revised to 5/25/05, Revision #4 showing proposed deed restricted areas to protect the wetlands, subject to the following conditions:

1. The right of way across the eastern parcel in favor of the western parcel shall be shown on the mylar as a 50' wide right of way labeled, "ROW for all purposes in favor of adjacent lot to the west."
2. In the area between the central wetlands and the western most building site shown on the above referenced map, a note shall be prominently placed on the mylar stating that all activities including the cutting of vegetation and disturbance of soil within 100 feet of wetlands and watercourses require a permit from the Inland Wetlands Commission.
3. The edge of the 100 foot regulated area shall be clearly and permanently marked in the field prior to the start of construction.
4. Native vegetation shall be allowed to grow undisturbed within 30 feet of all wetlands and watercourse areas,
5. Inland Wetlands Commission authority encompasses any clear cutting of vegetation, whether understory or canopy, or disturbance of soil within 100 feet of all wetlands and watercourses. Such activities require a wetland review and in most cases a permit.
6. The wetland protected areas and other provisions for wetlands protection shown on the map are a permanent deed restriction to run in perpetuity with the land.
7. A mylar showing all of the above conditions shall be produced for review and signing by the Commission chairman prior to its filing on the Town Land Records and issuance of the wetlands permit.

By Mr. Picton, seconded by Mrs. Korzenko, and

passed 4-1. Ms. Purnell voted No because the approval was counter to what the Commission has allowed in the past and results in the great potential that two large structures will be built with the potential for a long term adverse impact to the wetlands and watercourses.

Mrs. Gray was reseated.

Matthews/142 Upper Church Hill Road/#IW-05-23/Reconstruct and Extend Driveway: Mr. Neff, engineer, reported the location of the driveway right of way was still being considered by the applicant. He will call Mr. Ajello when it is staked so that he can make an inspection. Discussion was tabled to the next meeting.

Rosen/302 Nettleton Hollow Road/#IW-05-24/Tennis Court: Mr. Sabin, landscape architect, represented the applicant. He submitted a map, "Adjusted Plan," dated 6/7/05, which showed the proposed court moved slightly up the hill to increase the distance between it and the wetlands. The closest point from the pavement to the wetlands increased to 80 feet and the limit of disturbance to 50 feet. He noted the drywell and walkway had also been moved back. He also submitted a construction sequence. Mr. Picton asked what would happen to the spring. Mr. Sabin said the recharge gallery would pick up the groundwater flows, which would then flow into the curtain drain and overflow, so the seep would continue. Ms. Purnell asked if the court would be level. Mr. Sabin said it was crowned towards the perimeter where there was a surrounding drain. Ms. Purnell thought a feasible and prudent alternative would be to locate the pool behind the house. Mr. Sabin thought that was feasible, but not prudent, because it would take up all of the back yard next to the pool. Mrs. Korzenko asked for a written narrative on how the invasives would be removed. Mr. Ajello noted he had inspected the site, but had not yet reviewed the plans and so Mr. Picton asked him to do so. It was also noted the DEP form had not yet been submitted. Mrs. Korzenko said she was concerned there could be an adverse impact to the wetlands while there was ongoing construction. Mrs. D. Hill asked if the septic system would be located outside the regulated area. Mr. Neff said the plans had not yet been finalized, but it would not be within the 100 ft. setback. Mr. Picton said this was an issue because the proposed court would occupy part of the existing septic area. He asked that the location of the new system also be included on the map. It was suggested a \$3000 bond be posted to cover emergency remediation if needed. The Commissioners noted there were potential erosion problems along the perennial watercourse due to the proposed removal of invasives and the work proposed above the steep slopes.

Myfield, LLC./7 Mygatt Road/#IW-05-25/Ten Single Family Dwellings: The public hearing was continued to June 22, 2005 at 6:00 p.m.

Adams/214 West Shore Road/#IW-05-27/Replace Drainage Pipe: Mr. Neff, engineer, briefly reviewed the proposal to replace the two existing 4" pipes with an 8" pipe and catch basin with 2 ft. sump, which he said would greatly improve the drainage and lessen the impact to the lake. Because the catch basin would be located on private property and so not routinely maintained by the state, it was the consensus to make annual cleaning a condition of approval.

MOTION: To approve Application #IW-05-27 submitted by

Mr. Adams to replace the drainage pipe and install a culvert at 214 West Shore Road per the plans, "Proposed Drainage Improvements,"

by Mr. Neff, dated 4/25/05 subject to the following conditions:

1. The catch basin must be cleaned out at least once a year.
2. No additional work may be done on the north side of the road.

By Ms. Purnell, seconded by Mr. Picton, and passed 5-0.

Calhoun Street Trust/62 Calhoun Street/#IW-05-28/Guest House and Driveway: The map and plans, "Soil Erosion and Sediment Control Plan," by Mr. Neff, dated 5/9/05 and "Subsurface Sewage Disposal System," by Mr. Neff, dated 5/20/05 were reviewed. It was noted the proposed driveway would pass through a regulated area and half of the proposed parking would be within 100 feet of wetlands to the NE. Mr. Neff, engineer, noted the drainage would flow away from the wetlands, pointed out a natural buffer of vegetation between the proposed activities and the wetlands, said the parking area would be gravel, and noted he had kept the parking further from the wetlands that were down gradient. Ms. Purnell was concerned about leaks and spills working their way into the ground and that winter plowing would disrupt the parking area. The Commissioners asked Mr. Neff to reconfigure the parking to get it further from the wetlands. He agreed to shorten the driveway as much as was reasonably possible.

Frisbee Farm Estates/61 Frisbee Road/#IW-05-29/First Cut and Development Plan: Mr. DePecol, owner, and Mr. Szymanski, engineer, were present. Mr. Picton noted a site inspection had been conducted and concerns had been raised about the proposed driveway. A set of maps, "Frisbee Farm Estates, LLC.," 8 sheets, by Mr. Howland, revised to 6/8/05 was reviewed. Mr. DePecol stated the plans had been revised and the wetlands flagged to address those concerns. The proposed driveway would cross wetlands at its narrowest point, which was approx. 100 ft. wide and also would cross three intermittent streams further up the hill. Mr. Szymanski detailed the proposed construction and stormwater management plans, which, he said, ensured the hydrological function of the wetlands would be maintained. He also reviewed the mitigation plan comprised of 80 2 to 4 foot plants, which would form a permanent barrier of vegetation along the driveway. The erosion control measures, which included water bars, silt fencing, hay bales, and an anti tracking pad were also reviewed. It was noted a detailed narrative had been submitted and the limit of disturbance was indicated on the plans. Mr. Szymanski then presented three alternate plans to address feasible and prudent alternatives. The amount of disturbance proposed varied from .28 acres of wetlands in Alternative #2 and 1.23 acres of regulated area in Alternative #2 to 0 acres of wetlands and .2 acres of regulated area in Alternative #3. A lengthy discussion regarding the alternatives ensued. Mr. LaMuniere noted the proposed 1100 ft. long driveway would be in the regulated area for almost its entire length. Mr. Picton did not think the driveway could be constructed without both short term and long term impacts to the wetlands and watercourses. He referred to the 6/1/05 site inspection minutes, which stated the sideslopes would be typically 2:1 and a lengthy section of the driveway would have a grade of 15, which he thought were extreme conditions in close proximity to the wetlands. Mr. Picton thought there were other places on the property that could be developed with no impact to the wetlands. Mr. DePecol said the wetlands would not be impacted because the construction would be done properly according to plan. He noted he was trying to create a three lot conservation "subdivision" rather than a more densely developed (6 or more lots) subdivision with ultimately a greater impact to the wetlands. He asked the Commission what it thought about deed restrictions prohibiting further subdivision. Ms. Purnell said a more sophisticated analysis would be

required to determine whether that was a legitimate option. Mr. Picton thought that six houses that were not in the regulated area and were away from the steep slopes would have less impact than the original proposal. Ms. Purnell suggested this was a significant activity, which would merit a public hearing. Mr. LaMuniere thought the Commission had enough information to deny the application without holding a hearing. He made a motion to deny the application and Mr. Picton seconded it. Mrs. D. Hill and Ms. Purnell did not think the Commission had given the applicant adequate opportunity to address its concerns and to consider feasible and prudent alternatives. It was agreed they should have more time to study the matter and revise their plans. Mr. LaMuniere withdrew his motion. It was the consensus this was, indeed, a significant activity and that the Commission would wait until the June 22nd meeting to set a date for a public hearing.

New Applications

Whalen/138 Baldwin Hill Road/#IW-05-30/Stone Wall: The map, "Stonewall Reconstruction Plan," by Mr. Neff, dated 5/23/05 was reviewed. Mr. Picton stated the application was a result of a violation of clearing in the wetlands. Mr. Whalen noted the vegetation cut in the wetlands was already growing back. Mr. Picton asked that the area cleared and the proposed limit of open area be shown on the map. He was also asked to show where the understory would be allowed to regrow, the existing edge of the lawn, and where the stones were located that would be removed to use on the wall. Mr. Whalen said he did not propose to do additional clearing and that what had already been done was to provide access for the proposed work on the stone wall. The planting plan by old Farm Nursery, dated Spring 2005 was reviewed. Mr. Picton stated the application did not include adequate detail and asked for a written narrative on how the work would be done, what kind of equipment would be used, what earth work would be done, etc. Mr. Whalen asked if he was entitled to an exemption under the state statutes. Ms. Purnell pointed out that Washington does not easily fit under this statute due to its soil based zoning regulations. The Commissioners will inspect the property on their own prior to the next meeting.

Croasdaile/67 River Road/#IW-05-31/Garden Maintenance: Mrs. D. Hill recused herself and Alternate Korzenko was seated. Mr. Ajello said he had inspected the property and the cut vegetation was growing back. Mr. Picton read the undated proposal signed by Mrs. Croasdaile and photos taken by the property owner showing the new growth were circulated. Mr. Ajello thought the measures proposed would be adequate to restabilize the disturbed area. Mr. Ajello will inspect the site again before the next meeting and if he determines there are no problems, the Commission will act at the next meeting.

Kappes/8 Christian Street/#IW-05-32/Deck: Mrs. D. Hill was reseated. Mr. Ajello said he had not yet inspected the site. It was noted the distance from the deck to the stream had not been provided, although it appeared to be only 20 to 30 feet away. A site inspection was scheduled for Tuesday, June 21, 2005 at 4:00 p.m.

Calhoun Street Trust/62 Calhoun Street/#IW-05-33/Rebuild Pool Wall, Extend Parking Area: The map, "Proposed Plot Plan Map," by Mr. Neff, revised to 5/12/05 was reviewed. Mr. Ajello explained all the recent applications for work on this property had not been coordinated because each project has a different contractor. Even so, the Commission urged the property owner to coordinate the applications so it could be better determined what the impacts to the wetlands would be. Mr. Picton asked Mr. Ajello to review the application for completeness and to ask the applicant to make every effort to keep parking and buildings out of the regulated area. Mr. Ajello will also request a planting plan for both the guest house and pool.

The Commission altered the agenda to accommodate those present.

Other Business

Washington Montessori School/240 Litchfield Turnpike/#IW-01-08/ Request for Release of Bond:

Mr. McNaughton submitted the 6/8/05 letter, which detailed the final restoration work completed, provided a long term maintenance schedule, and included the results of water tests. Based on this information, he asked for the release of the bond. It was noted Mr. Ajello, Ms. Coe, and Mr. LaMuniere had inspected the vernal pools. Ms. Purnell asked how the vegetation on the west side was doing, and Mr. LaMuniere said it was doing well on both sides. She then asked about the area between the rock lined swale and the area to the north. Mr. Ajello said it was thickly vegetated. Ms. Purnell was concerned about the cattails filling the detention basins because they were forming a monoculture. She said the area was supposed to be stabilized with a diversity of plants. She suggested Mr. McNaughton return to the Commission with an adaptive management plan. Ms. Purnell will evaluate the work done, check to make certain all the conditions of approval have been complied with, and have recommendations ready for the next meeting. Mr. McNaughton advised the Commission that at this stage he would not be receptive to additional requirements.

Meeker/269 New Milford Turnpike/Request to Revise Permit #IW-05-01

Outside Storage Structure: Mr. Meeker explained he was now applying to the Zoning Commission for the outside storage structure already approved by the Wetlands Commission. He said Zoning would prefer it be located closer to the stream where it would be less visible to adjoining property owners. Wetlands had approved a location 107 feet from the stream and the revised location was only 40 feet from the streambank. It was the consensus of the Commission that since pool chemicals would be stored in the structure, it should not be moved closer to the river. The Zoning Commission will be notified that Inland Wetlands will not approve the change in location and recommends instead that screening; lattice, fencing, potted plants, etc. be used to buffer it from the adjoining properties. Mr. Meeker's permit revision fee was returned to him.

Ross/24 Wilbur Road/Clarification of Permit #IW-04=59: Mr. Ross noted his approval had included the condition that no top soil be removed from the site in an attempt to prevent the spread of knotweed. The map, "Septic Plan," by Altermatt Engineering, LLC., revised to 10/26/05 was reviewed. Mr. Ross stated he would have 500 yards of excess top soil and would not be able to use it all on site. It was the consensus that all soil within 20 feet of the knotweed must remain on site and the rest could be removed.

Enforcement

Feola/84 Carmel Hill Road/Excavation in Wetlands: Mr. Ajello said he had received the following documents: 1) 6/3/05 letter from Mr. Duggins of 64 Woods Edge Road, Bethlehem and 2) a page from Mrs. Corrigan's 1999 vernal pool assessment. Mrs. Corrigan stated there is also evidence of a vernal pool on the aerial map and that she expected the adjoining property owners and the previous owners, the Desmonds, to submit statements that a vernal pool did, indeed, exist. She said the aerial map would not copy well, but urged the Commissioners to go to the Conservation Service office to inspect it. Ms. Purnell said the vernal pool was also indicated in the Natural Resource Inventory Report. Mrs. Corrigan advised the Commission that if it ordered the pool to be restored, the vegetation would have to be monitored. Mr. Picton noted the piles of black soil still on the property were evidence a watercourse had existed. It was the consensus that Mr. Ajello should issue an enforcement order to Mr. Feola and a Show Cause Hearing was scheduled for 7:00 p.m. on June 22, 2005 in the Land Use Meeting Room, Bryan Memorial Town Hall.

Other Business**Town of Washington/6 Bryan Plaza//Modification of Permit**

#IW-05-16/Replace Bridge: Mr. Sears summarized the conditions of approval regarding the ban of

pressure treated materials in the construction of the bridge and asked that the condition be modified. He said the bridge was prefab and the manufacturer could not comply. At the previous meeting he had submitted information on the safety of pressure treated materials and stated if the approval were modified, all pressure treated elements would be sealed off site. He said he would look into the possibility of a double seal. Mrs. Korzenko reported on the hazards of pressure treated wood and said the proposal would likely cause only minimal, if any, impact to the watercourse. Mr. Picton noted it had not been proven it was safe, but also it had not been proven there would be an adverse impact. Ms. Purnell was concerned that the chemicals had not been proven to be safe and that there was not enough information upon which to base a decision.

MOTION: To approve the request to amend Permit #IW-05-16

issued to the Town of Washington to replace the pedestrian bridge at 6 Bryan Plaza to allow the bridge to be constructed of pressure treated wood with a double coating of sealer to retard the leaching of preservatives to be applied off site prior to installation and with the condition that there shall be no cutting of the pressure treated material occurring over the brook. By Mr. Picton, seconded by Mr. LaMuniere, and passed 4-1. Ms. Purnell voted No because she did not think enough information had been presented to make an informed assessment.

Washington Art Association/4 Bryan Plaza/Modification of Permit #IW-05-17/ Streambank Stabilization: Mrs. Sears submitted a plan, "Alternative #1 to River Bank Stabilization," by Land Tech Consultants, Inc., dated 6/1/05. He proposed stone slope paving instead of the previously approved gabion wall. The stone slope paved area would be 60 ft. long and would require less backfilling and less channelizing of the stream than the gabion wall. The method of installation was discussed. Mr. Picton noted the stones would taper off and would not encroach on the edge of the streambed.

MOTION: To approve the request to amend Permit #IW-05-17

issued to the Washington Art Association for streambank stabilization at 4 Bryan Plaza to permit stone slope paving per the plan, "Alternate #1 to River Bank Stabilization," by Land Tech Consultants, dated 6/1/05. By Mrs. D. Hill, seconded by Mr. Picton, and passed 5-0.

Pinover/Senff Road/Herbicide Application: Mr. Ajello had not yet inspected the property. He was asked to visit the site and report back so that the Commission could respond to the Pinover's letter.

Beck/132 Calhoun Street/#IW-02-V1: Mr. Beck had written to the Commission to request a final inspection so that this matter could be closed. Mr. Ajello was instructed to write to him to request the required report by Mrs. Corrigan. A site inspection was scheduled for Tuesday, June 21, 2005 at 4:30 p.m.

Referral from the Town of New Milford/Meeker/60 Walker Road North/ Construct Farm Road and Curtain Drain: A computer drawn map was briefly reviewed. It was thought the proposed activities would not have an adverse impact on Washington.

MOTION: To go into Executive Session at 12:10 p.m.

to discuss pending litigation. By Mr. Picton,

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

MOTION: To end Executive Session at 12:16 p.m. By

Mrs. D. Hill, seconded by Mrs. Gray, and

passed 5-0.

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

Mr. Picton adjourned the meeting at 12:16 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill

Land Use Coordinator
