

January 27, 2010

Public Hearing – Regular Meeting
5:00 and 7:00 p.m., Land Use Meeting Room

PUBLIC HEARING

MEMBERS PRESENT: Mr. Bedini, Mr. Bohan, Mrs. Hill

MEMBER ABSENT: Mr. LaMuniere

MEMBER RECUSED: Mr. Wadelton

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

ALSO PRESENT: Mr. Boling, Mr. Charles, Mr. Sonder, Mrs. Burr, Ms. Connerty, Mr. Meyer, Mr./Mrs. Condon, Mr. Wadelton, Residents

Mr. Bedini called the Public Hearing to order at 5:05 p.m. and seated Members Bedini, Bohan, and Hill. He then read the list of documents submitted since the last session of the public hearing.

Mr. Boling, agent for the applicant, noted the applicant had not had time to read and respond to the review by Milone and MacBroom dated 1/27/10, but would be willing to answer questions.

Mr. Charles, agent for the applicant, said he would submit the written report on feasible and prudent alternatives tomorrow.

Mr. Meyer stated he was concerned about the proposed crossing and he thanked the Commission for its time and effort in reviewing the application.

Mr. Sonder said his engineer was also working on a report re: feasible and prudent alternatives, which would be submitted soon. He submitted photos of Chaple Brook during the storm on 1/25/10, played a video showing the water flowing in the brook during the storm, and submitted the record of Monday's rainfall, a letter dated 1/27/10, and the video disc. Mr. Bedini asked him to label all photos and Mr. Sonder did so.

Mr. Charles noted that when he was on the property during the storm, the water did not overflow the swale. Mr. Sonder agreed that he had never seen the swale overflow, but added that there would be additional drainage problems in the area if discharge was added. He also stated that Mr. Trinkaus had proposed to place the dewatering pump in the "worst spot imaginable."

In response to a question from Mr. Bedini, Mr. Boling stated the travelway of the bridge and driveway was 18 feet, but this was increased to account for the width of the abutments and at the request of the Fire Dept. to accommodate emergency vehicles. Mr. Charles stated a study re: the width of fire trucks would be submitted for the next meeting. Mr. Bedini asked the applicant to provide the Fire Dept's width and load requirements for the bridge. Mr. Boling said a narrower bridge would be preferred aesthetically and environmentally, but the Fire Dept. requirements had to be met.

Mr. Bedini reviewed the application's timetable, noting that the public hearing must be concluded within 35 days of 1/13/10 unless an extension was granted by the applicant.

Mr. Bedini urged all parties to get their written documents in as soon as possible so that the Commission's consultant would have time to review them prior to the next session of the hearing.

Mr. Sonder asked if the Commission thought the Milone and MacBroom report was complete. Mrs. J. Hill said she did not think so because she was still waiting for information from the applicant such as the report on feasible and prudent alternatives, which would be forwarded for review as soon as it was received.

Mr. Bedini noted the public hearing would be continued to Wednesday, February 10, 2010 at 5:00 p.m. in the Land Use Meeting Room, Bryan Memorial Town Hall. At 5:25 p.m. he continued the public hearing.

This public hearing was recorded and the recording is available in the Land Use Office.

REGULAR MEETING

MEMBERS PRESENT: Mr. Bedini, Mr. Bohan, Mrs. Hill, Mr. Wadelton

MEMBER ABSENT: Mr. LaMunier

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

ALSO PRESENT: Mr. Charles, Mr. Nettleton, Mr. Riefenhauser, Mr. Neff, Mr./Mrs. Barist

Mr. Bedini called the Regular Meeting to order at 7:00 p.m. and seated Members Bedini, Bohan, Hill, and Wadelton.

MOTION:

To add the following subsequent business to the Agenda:

V. New Applications

B. Carter/ 141 Shinar Mountain Road/#IW-10-05/Addition to Existing Dwelling,

VI. Other Business

B. Martin-Anderson/Drainage on Gunn Hill Road Properties and VIII. Administrative Business

C. Municipal Leader Training/2/17/10.

By Mr. Wadelton, seconded by Mrs. Hill, passed 4-0.

Consideration of the Minutes

The 1/13/10 Public Hearing-Regular Meeting minutes were accepted as corrected.

Page 2 and throughout: Correct spellings: Myles, soil scientist and Riefenhauser, engineer

Page 5: The Public Hearing was continued to 1/27, not 1/25.

Page 7: At the top of the page January 20 should be January 27.

5th line from bottom: Add: "by Zoning" after "permitted."

Page 8: 6th line from bottom: Insert: "she" before "described."

Page 10: Under Weaver: 2nd line: Change "Mr. Auth" to "Mr. Weaver."

MOTION:

To accept the 1/13/10 Public Hearing-Regular Meeting minutes as corrected.

By Mr. Bedini, seconded by Mrs. Hill, and passed 3-0-1. Mr. Wadelton abstained.

The 1/19/10 Special Meeting Minutes were accepted as corrected.

Page 1: Add to the reason for the application: Driveway Improvements and Utility Conduit

MOTION:

To accept the 1/19/10 Site Inspection minutes as corrected.

By Mrs. Hill, seconded by Mr. Bedini, and passed 4-0.

Pending Applications

Straw Man, LLC./135 Bee Brook Road/#IW-09-44/Bridge and Driveway:

The Public Hearing was continued to Wednesday, February 10, 2010 at 5:00 p.m. in the Land Use Meeting Room.

Nettleton/81 Painter Ridge Road/#IW-10-02/2 Lot Subdivision, Driveway Improvements, Utility

Conduit:

Mr. Riefenhauser, engineer, stated there had been no revisions since the last meeting. He said the underground utilities would be installed along the north side of the driveway and in the center of the driveway where it crosses the wetlands. He noted a sub base would be put down and the driveway would be paved after the site development had been completed. Mr. Bohan asked if details for the culvert had been submitted. Mr. Riefenhauser said, no, because it had already been installed. The utilities would go over the top of the culvert in a metal conduit. Mr. Ajello recommended double silt fencing along the wetlands crossing. Mr. Nettleton noted to date the existing driveway had remained stable during storms, due at least in part to the water breaks, which slow the runoff. He said he expected to maintain them. Mr. Bedini noted a 2 year permit would be issued.

MOTION:

To approve Application #IW-10-02 submitted by Mr. Nettleton for a 2 lot subdivision, driveway improvements, and installation of conduit at 81 Painter Ridge Road subject to the following condition: that silt fence be installed along both sides of the driveway at the wetlands crossing before the driveway improvements and conduit installation has begun and remain in place for the duration of construction and until the driveway is paved.

By Mr. Bedini, seconded by Mr. Wadelton, and passed 5-0.

Lyons-Gray/82 Old Litchfield Road/#IW-10-03/Removal of Vegetation:

Mr. Neff, engineer, represented the property owners. His plan, "Invasive Vegetation Removal Plan," revised to 1/22/10 was reviewed. Mr. Neff noted the revisions:

- 1) The limit of the work zone and limit of clearing were described.
- 2) A note was added to the sequence of construction that all the invasives to be removed would be identified and tagged prior to an on site pre work meeting with Mr. Neff, the WEO, and the contractor.
- 3) A note was added to the project narrative that there would be no removal or cutting of native vegetation. Mr. Neff stated these "tightened" specifications would eliminate problems during implementation of the work on the 3.5 acre site.

It was noted the only activity proposed in the area to the south where the wetlands had not been flagged was removal of invasives and that most of the work would be done by hand. Mr. Neff said most of the work would be done in the winter and would be followed up during the growing season with a treatment of Roundup brushed on by hand on plants in the wetlands. Mr. Ajello said it was important that the person identifying the vegetation to be removed have a knowledge of plants and that the work crew be careful and informed. He thought it was important, too, to preserve the native woody shrub growth in the wetlands. Mr. Neff noted that no planting was proposed. A site inspection was scheduled on Thursday, February 4, 2010 at 4:00 p.m.

New Applications

Barist/22 South Fenn Hill Road/#IW-10-04/Clearing, Restoration:

The map, "Pearson Farm," by Mr. Bertaccini, dated December 1986 was reviewed. Using the map, Mr. Barist described the existing conditions on the property and where the cutting had occurred and was proposed. He noted only dead and fallen trees and invasives had been removed, the work was being done by a licensed arborist who was on site every day, the work had not begun until January 8 after the ground was frozen, no work was proposed on the far side of the stream, and no construction or diversion of water was proposed. Mr. Barist said he did not think a permit was required because he was not clearcutting. He said after the dead trees were removed he planned to let the forest restore itself. Mr. Ajello circulated photos of the work done to date. He said that some of the work done was in actual wetlands and that he thought activities close to the streambanks could cause them to cave in. He recommended that woody shrub growth in the wetlands be encouraged and that snags be left in place

for wildlife habitat. A site inspection was scheduled for Thursday, February 4, 2010 at 4:30 p.m. Mr. Barist again said that he had read the Regulations and did not think they applied, but said he would cooperate with the Commission. Mr. Bedini said the Commission would inspect the site and then let Mr. Barist know if an application was required. Mrs. Hill noted that the contractor, Mr. Wanag, was familiar with the Regulations and knew that activities near and in wetlands must be reviewed by the Commission.

Carter/141 Shinar Mountain Road/#IW-10-05/Addition to Existing Dwelling:

The application is for a second story addition to an existing dwelling located approximately 50 feet from Walker Brook. It was noted there was flat lawn area between the house and the brook and that all work would be done on the existing footprint so there would be no soil disturbance. The map, "Site Development Plan," by Arthur H. Howland and Assoc., dated 1/20/10 was reviewed. The limit of disturbance line and row of staked hay bales were noted. Mr. Ajello assumed the equipment would access the site from the SE in order not to enter the property near the brook. Mrs. J. Hill noted three items were missing from the proposed construction sequence; 1) to require the land use office be notified 48 hours prior to the start of work so that the WEO can inspect and approve the erosion controls, 2) who will be responsible for inspection and maintenance of the erosion controls, and 3) that the WEO must inspect the site to make sure it is fully stabilized before the erosion controls are removed. Mr. Ajello said he would contact the owner's agent to request these revisions.

Other Business

Walker Brook Farm, New Milford and Impacts to Walker Brook:

Mr. Bedini noted there had been heavy sedimentation of Walker Brook during the storm on Sunday and Monday, January 24-25, and that five complaints had been received, even though Walker Brook Farm is not under Washington's jurisdiction. He said he requested that a letter with photos of the conditions on site and the log of complaints be sent to Mayor Murphy with a copy to the First Selectman. Mr. Ajello reviewed the recent history of the site and said that Mr. Ferlow, the New Milford WEO, had sent out a notice of violation at 5:00 p.m. on Wednesday. The goal, he said, was to develop a better erosion control plan under the direction of the notice of violation. Photos of the site taken by Mr. Hayden of NCD were circulated. Mr. Ajello stressed that progress was being made. Mr. Charles noted that the NCD had written several reports about the erosion problems on this property and observed that those who had made complaints were respected and well informed.

Subdivision in Litchfield:

Mrs. Hill complained that the Commission had not been informed of the current subdivision application on Old Mt. Tom Road in Litchfield. Mr. Ajello and Mrs. Hill noted that although it may not have been discussed at a Commission meeting, Litchfield had notified Washington months ago, Mr. Lyon had contacted Litchfield about drainage and sight line issues, and Mr. Ajello had been assured by Land Tech that improvements to the proposed stormwater management system had been incorporated in the plans. Mrs. Hill thought this proposal was similar to Walker Brook Farm and so the Commission should "keep an eye on it."

Martin-Andersson/Gunn Hill Road/Drainage Issues:

It was reported that Ms. Martin had complained that the large stonewall built on the neighboring Andersson property blocked the flow of runoff to the wetlands on the Andersson property, which would cause them to dry up, backed this runoff onto her property, and caused runoff problems and icing on Gunn Hill Road. Mr. Wadelton read her letter dated 1/26/10 and photos she sent of the drainage conditions on both properties were studied. The wall is dry stacked so the commissioners did not think it blocked the flow of water, although it did slow it down. They thought the decrease in velocity would result in more of the water slowly infiltrating into the ground and reaching the wetlands and less of the

water flowing off site. It was the consensus that the runoff in question was sheet flow, that it was not under the Commission's jurisdiction until it reaches the wetlands, and the wall that had been built was not illegal. A letter will be sent to Ms. Martin to explain how infiltration works and to advise her that if she does not agree with the Commission's opinion, she can hire a consultant to study the situation.

Mello/183 Woodbury Road/Drill Well:

Mr. Ajello presented the map, "Zoning Location Survey," by Mr. Gee, dated 12/8/05. He pointed out the location of the contaminated well and the location the Health Dept. had approved for a new well 50 feet from the brook. Mr. Ajello noted he had discussed the proposed activity with Mr. Foss, well driller, but it had been too late to make the submission deadline. Mr. Foss planned to construct a rough road bed, drill the well, trench and put in a line to the house, regrade, and spread hay while the ground was frozen. Mr. Ajello asked if the Commission would be comfortable letting him handle the application as an Agent Approval. It was the consensus that it would be good to get the work done while the ground was frozen as long as adequate erosion control measures were implemented. Mr. Ajello described how hay bales and silt fences would be doubled up and how the water flushed from the well would infiltrate before reaching the hay bales. An Agent Approval will be conditioned upon installation of such erosion control measures.

Enforcement Report

Barist/22 South Fenn Hill Road/Unauthorized Clearing:

Mr. Ajello noted the wood chips resulting from the work on this property should be spread in a thin layer so regrowth of the understory would not be hampered. He also advised the Commission that he had received a complaint from an adjoining property owner, had inspected the site, and had then issued a notice of violation.

Brose/213 Roxbury Road/Unauthorized Clearcutting, Structure/ #IW-08-V5:

The draft settlement proposal was discussed. Mr. Bedini thought a \$500 bond was not enough and that there should be a time limit specified in which the required work must be completed. Mr. Ajello thought a low bond was sufficient because the enforcement order had been filed on the Land Records. It was the consensus that January 1, 2011 would be the date by which the work must be completed and if not, the agreement would become null and void and the matter sent to the Commission's attorney for enforcement of the enforcement order. Other revisions agreed upon included the deletion of the word, "gratefully" in the cover letter and the addition in item #2 that the environmental monitor selected must be satisfactory to the Commission. Also it was the consensus that Mr. Ajello should send the agreement to Atty. Zizka for review.

Delancy/79 Litchfield Turnpike/Clearcutting/#IW-08-V6:

There was nothing new to report. It was the consensus to give Mr. Delancy a little more time to respond to the Commission's requests, and if he doesn't, the citation will be reissued.

Bol/Slaughterhouse Road:

Mrs. Hill noted there had been no reports on this permitted activity. Mr. Ajello said the work was going well.

Lodsins/78 Litchfield Turnpike/Unauthorized Excavation/#IW-07-V12:

There was nothing new to report.

Potolsky/131 West Shore Road/Driveway:

The driveway held up during last week's storm.

Town of Washington/Plumb Hill Road:

There are problems with the road shoulders that will have to be addressed in the spring.

Washington Partners, LLC./108 New Milford Turnpike:
The disturbed areas have been regraded and hayed.

Administrative Business

Workshop:

Mr. Bedini reported that he had contacted Atty. Branse who had advised him that the Ct. Bar Association would provide the Commission with speakers for no charge. He then sent a second email requesting Atty. Branse and listing the topics the Commission would like covered in the workshop. He has not yet received a reply.

2010-2011 Budget:

- 1) There was a brief discussion regarding whether to include the \$575 line item for membership in the Northwest Conservation District. The Selectmen's Office had asked whether the NCD was being used and if it was worth the expenditure. It was the consensus that although the Commission had not lately used the services offered by the NCD, it would look into doing so more often in the future, and more importantly, it valued its professional alliance with the District and wanted to continue to support its conservation work and environmental policies. The \$575 was included in the budget request.
- 2) Possible monitoring of the water quality of Walker Brook and establishing base line data was discussed. Hydro Technologies had recommended testing four times a year at five locations, which would cost approx. \$1500. It was agreed that obtaining this information about the overall health of the brook could be helpful, especially in light of the ongoing sedimentation problems associated with Walker Brook Farm in New Milford, and that the \$1500 would be included in the budget. Mr. Ajello suggested that other downstream towns should get involved in the efforts to protect the brook. Mr. Bedini also thought Mr. Lyon should address this matter with Mayor Murphy.

MOTION:

To adjourn the Meeting. By Mr. Bohan.

Mr. Bedini adjourned the meeting at 10:08 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,
Janet M. Hill
Land Use Administrator