

February 24, 2010

Public Hearing – Regular Meeting

5:00 p.m., Land Use Meeting Room

PUBLIC HEARING

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

MEMBER RECUSED: Mr. Wadelton

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

ALSO PRESENT: Mrs. Canning, Mr. Charles, Mr. Boling, Mr. Trinkaus, Mr. Sonder, Mr. Battista, Mr. Sanford, Mr. Dunbar, Ms. Meyer, Ms. Max-Fiss, Residents

Straw Man, LLC./135 Bee Brook Road (Juniper Meadow Road)/#IW-09-44, Driveway and Bridge

Mr. Bedini reconvened the public hearing at 5:02 p.m. and seated Members Bedini, Bohan, Hill, and LaMuniere. He noted for the record that Mr. Bohan and Mr. LaMuniere had thoroughly reviewed the file and had listened to the recordings of the hearing. Mrs. J. Hill read the list of documents that had been submitted since the last session of the hearing. Mr. Bedini noted that unless the applicant requested an extension, the hearing would have to be closed tonight.

Mr. Trinkaus, engineer, addressed the concerns raised in Milone and MacBroom's follow-up review letter dated 2/19/10. The points he made included the following: Regarding the proposed width of the bridge deck, he stated that the abutments would be in place to support the bridge and hold the banks regardless of the width of the travelway. He said the sewage disposal system for the Bee Brook Condos was located outside the upland review area and was a Zoning and Health Dept. issue. He noted the Health Code specifies there can be no cut within 50 feet of a sewage disposal system and so if the driveway was shifted 5 ft. to the south and the driveway runoff directed in the same direction it flows now, this would be a "non issue." He discussed the proposed seepage envelope.

In response to Milone and MacBroom's opinion that crushed stone might be needed under the footings, Mr. Trinkaus said he had done similar bridge construction without the stone, but added he would be willing to do soils testing and revise his plans if necessary. He said that although FEMA maps do not indicate either a flood plain or flood way along Chaple Brook, it was common sense a flood plain does exist there. He said the height of the water in a 100 year storm had been calculated and he agreed to do a scour analysis as a condition of approval. He stated that a bridge would not constrain the flow of flood water. In response to the criticism that a biological evaluation of the wetlands had not been submitted, he stated that the Regulations state the Commission "may" require one, but had not asked for one. He also noted that per Milone and MacBroom's request, three cross sections had been prepared. He said, too, that a few drafting errors had been corrected on the revised plans and that the proposed grading works within the limit of construction and could be accomplished within the right of way.

Mr. Bedini asked the reason for the proposed 18 ft. wide travel surface. Mr. Trinkaus said the 14 acre site could be subdivided and a 12 foot wide access would not be sufficient for safety concerns and emergency access. Mr. Bedini noted the Fire Dept. has no written regulations regarding road and driveway width requirements and said its recommendations vary. Mr. Trinkaus gave examples of width requirements in other towns and said 18 feet wide was safe without being too wide and was sufficiently wide for two vehicles to pass.

Mr. Bedini asked if the end use of the property was known. Mr. Boling said multiple residences would be built, but there were no specific plans at this time.

Mr. Boling stated that installing a 12 ft. wide driveway first and then reinstalling an 18 ft. wide driveway when needed would cause more adverse impact to the wetlands than the installation of the proposed 18 ft. wide drive.

Mr. Ajello asked if the 23 ft. width for the bridge abutments would still be needed if the travelway was only 12 ft. wide. Mr. Trinkaus responded that the size of the wing wall was governed by the grading and filling associated with the driveway and the side height of the wing walls governed the distance between the abutments, so a 12 ft. wide travelway would not necessarily move the abutments closer together. He said the vertical geometry governed the width requirement; the center section through the wetlands would not shrink. Mr. Ajello said he would like Mr. Sanford, engineer from Milone and MacBroom, to comment on this later.

Mr. LaMuniere noted it was critical for the Commission to determine whether the narrower bridge would have less impact on the wetlands. He asked, 1) what would be the difference in the area of impact to the wetlands surface if the driveway width was reduced from 18 ft. to 12 ft. and 2) would the seepage envelope be able to handle a 100 year storm event. Mr. Trinkaus answered that there would be 100 to 120 sq. ft. less impact with the reduction in driveway width and said the pipes have more than enough capacity to carry a 100 year storm. He noted that if the driveway were only 12 ft. wide, small pull offs would have to be installed in several upland areas. He said that the flood waters that did not infiltrate in the natural environment would take the path of least resistance and flow across the flat wetland area, under the bridge, and down Chaple Brook. He noted the watershed was only slightly over three acres in size.

Mr. LaMuniere asked if there would be potential for heavy turbulence, which would result in scouring and erosion. Mr. Trinkaus said, no, because there was more than ample capacity.

Mr. LaMuniere asked if the abutment was deep enough. Mr. Trinkaus stated that it met the 4 ft. deep requirement.

Mr. LaMuniere noted that the existing slope could absorb a lot of rainfall and that if a development was proposed, a complete stormwater management plan would have to be approved so there would be no downgrade impacts. He asked how much rainfall it would take to significantly impact the proposed stone check dams. Mr. Trinkaus referred to the 2/4/10 letter he had submitted and said that not much runoff would flow into the swale.

Mr. Trinkaus commented on the additional impact to the wetlands, which would be caused if a 12 ft. wide bridge was installed and then later had to be widened to 18 feet. He stated it would be more environmentally sound to do the work all at once.

Mrs. Hill asked Mr. Trinkaus to submit his presentation in writing for the file.

Mr. LaMuniere asked about potential seepage from the existing Bee Brook Condos' septic system and if there were plans to test the soil in this area. Mr. Trinkaus stated the bank near the septic system had already been cut and regraded so if there was going to be a problem with effluent leaching out, it probably would have happened already. He noted, too, that the system was outside of the upland review area.

Mr. Dunbar asked how the property would be used in the future. Mr. Bedini asked the applicant why access to the property was needed and what type of equipment would be used there. Mr. Boling responded there would be multiple residences proposed.

Mr. LaMuniere said he was puzzled by the claim that the bridge would significantly impact the wetlands. He thought the installation of the proposed filter fabric and 12 inch blast rock would ensure the hydraulic function of the wetlands would not be impaired and the wetlands would continue to

function and he asked Mr. Sanford to comment.

Mr. Sanford stated the direct impact to the wetlands would be from the fill required for the abutments, but an additional impact would be the effect of loss of sunlight on the wetlands vegetation. He said if the travelway was reduced to 12 ft. wide and the abutments shrunk, there would be "somewhat less impact" relating to the fill and loss of sunlight. He noted, too, that along the seepage envelope, the width of the swale and shoulders would be somewhat reduced. He advised the Commission that it has the right to ask for a report regarding the impacts of the proposed crossing. He explained that in terms of the seepage envelope there would be "some" compaction of wetlands soils caused by the driveway. He thought the surface water flow and groundwater hydrology would have "some" loss, but that the installation of a gravel driveway would allow the natural flow to continue through. Regarding Section 8.06f of the Regulations, Mr. Sanford said that Inland Wetlands commissions typically require this information and that since the Commission had deemed this proposal to be a significant activity, it should ask for assurance that what was designed was the best alternative to protect the wetlands function and vegetation.

There was a brief discussion regarding the relationship of the bridge width to the ultimate use of the property.

Mr. Meyer noted that equipment for testing had previously accessed the property from Calhoun Street and he asked what data had been obtained. Mr. Boling said it had been learned that the property has significant development potential. Mr. Trinkaus stated that additional testing in the areas of the proposed septic systems was necessary. Mr. Boling stated that the feasible and prudent development sites were 200 to 600 feet from the wetlands and he understood that if there were any wetlands issues the applicant would have to come back to the Commission.

It was noted the following additional documents/information would be submitted for the file: 1) revised plans from Mr. Trinkaus, 2) follow up letter from Milone and MacBroom, 3) possible response from the applicant re: Mr. Sonder's 2/24/10 letter, and 4) a written response by Mr. Trinkaus to the latest Milone and MacBroom letter. The applicant also stated that he wanted to hear any input from Mr. Battista so there would be an opportunity to respond to it before the next meeting.

Ms. Meyer did not understand why it was necessary for a car to cross the stream. Mr. Ajello stated a footbridge would be sufficient. Ms. Max-Fiss said the property could be checked with Google or other ways that would not require a crossing.

Mr. Sonder stated the applicant contends that a two lane crossing is needed to satisfy the potential development of the site, but said that potential had not been established and there was no evidence that it was suitable for more than one or two houses. He said the soils map showed the site has soils with severe septic limitations and the latest soils report indicated the non wetlands soils had not been evaluated by a soil scientist. He said that to approve more than necessary would be detrimental to the wetlands in the long term. He noted the Commission had approved a culvert crossing in 1999, but said a complete application for the crossing, two house sites, and a shared driveway had been submitted at that time. He acknowledged the applicant's right of way. He said, however, the construction of a bridge would result in disturbance of wetlands on the Condo Assoc. property and the Assoc. wanted to be careful that any negative impacts and danger of flooding were kept to a minimum and there would be no grading encroachments on its property. He urged the Commission not to approve any activity that would be more intrusive than necessary to serve the parcel and so said determination of the need was essential for the evaluation of a complete application.

Mr. Battista, engineer for the Assoc., noted he had submitted two letters for the file in which he had expressed engineering concerns. These included the following: He agreed with Milone and MacBroom that the application was incomplete in respect to the lack of ecological studies. He stated that the

applicant had resisted a hydraulic analysis of the brook. He thought the bridge would require a DEP permit due to the size of the watershed. He said the grading for the roadway was inaccurately shown on the plans and that as proposed, grading outside the right of way could not be avoided. He estimated there was a 14% difference in the disturbance to wetlands that would result from a 12 ft. wide vs. 18 ft. wide bridge; 2660 sq. ft. vs. 3030 sq. ft.

Mr. LaMuniere noted the importance of the 2/24/10 letter from Atty. Zizka to the Commission and said the Commission understood a bridge was a better crossing solution than a culvert. He thought the difference in the amount of wetlands to be disturbed was insignificant, but asked the commissioners whether they thought the ecological study per Section 8 of the Regulations was warranted. Mr. Bedini asked Mr. Sanford to comment.

Mr. Sanford stated that typically if a significant activity is proposed and a perennial watercourse is involved, the applicant provides for the record a report on the quality of the watercourse and the potential impact on its functions and values. He noted that no documentation had been submitted to demonstrate that an 18 ft. wide bridge would not impact these functions and values. Mr. Boling noted the Regulations state the Commission “may” require such a report, not that the report is always required.

Mr. Trinkaus briefly responded to Mr. Sanford. He noted the proposed seepage envelope was in the upper limit of the wetland pocket, but said the crossing location was restricted due to the location of the right of way. He said the crossing was proposed at the narrowest point available to the applicant and that efforts had been made to limit compaction. He also thought that because the bridge location is currently in dense shade, there was not now dense herbaceous vegetation there that could be affected by shade from a bridge. He stated that if the Commission required the ecological report, it would not change the proposed location of the crossing.

Mr. Sanford stated that the record did not evaluate the wetlands, yet that was what the Commission was supposed to do.

Mr. LaMuniere agreed that although it was a very small area that would be evaluated, it should be done for legal purposes.

Mr. Sanford advised the applicant to focus on the seepage wetlands, stream, and flood plain wetlands. He said it would be for the Town’s benefit to have a complete record of what exists on site and to make sure all of the criteria of the Regulations were met.

Mr. Boling submitted a letter dated 2/24/10 asking for the maximum extension permitted.

Mr. Bedini continued the public hearing to 5:00 p.m. on March 10, 2010 in the Land Use Meeting Room, Bryan Memorial Town Hall. The hearing was continued at 6:28 p.m.

This public hearing was recorded. The recording is on file in the Land Use Office, Bryan Memorial Town Hall, Washington Depot, Ct.

REGULAR MEETING

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

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

ALSO PRESENT: Mr. Forese, Mrs. Swanson, Ms. Forese, Mr. Neff, Mr. Szymanski

Mr. Bedini called the Regular Meeting to order at 7:12 p.m. and seated Members Bedini, Bohan, Hill, LaMuniere, and Wadelton.

MOTION:

To add the following subsequent business to the agenda:

V. New Application, A. Swanson-Forese/41 Horse Heaven Road/#IW-10-06/Feasibility for First Cut.
By Mr. Bedini, seconded by Mr. Wadelton, and passed 5-0.

Consideration of the Minutes The 1/27/10 Minutes were accepted as corrected.

Page 1: The Public Hearing should be titled, Straw Man, LLC/135 Bee Brook Road/#IW-09-44/Bridge and Driveway.

Page 2: The correct spelling is Andersson.

Page 5: Under Barist: It was noted an application had already been submitted.

Page 5: Under Carter: 9th line: Change: "assumed" to "confirmed."

Page 6: Under Subdivision in Litchfield: Line 4: Change to: Mrs. J. Hill.

MOTION:

To accept the 1/27/10 Public Hearing/Regular Meeting minutes as corrected.

By Mrs. Hill, seconded by Mr. Bohan, and passed 4-0-1.

Mr. LaMuniere abstained because he had not been present.

MOTION:

To accept the 2/4/10 Lyons-Gray site inspection minutes as written.

By Mr. Wadelton, seconded by Mrs. Hill, and passed 3-0-2.

Mr. LaMuniere and Mr. Bohan abstained because they had not been present.

MOTION:

To accept the 2/4/10 Barist site inspection minutes as written.

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

Pending Applications

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

The public hearing was continued to 5:00 p.m. on March 10, 2010 in the Land Use Meeting Room.

Lyons-Gray/82 Old Litchfield Road/#IW-10-03/Remove Invasives and Other Vegetation:

Mr. Neff, engineer, noted there had been no revisions to the plan since it had been discussed at the last meeting. The plan, "Invasive Vegetation Control Plan," by Mr. Neff, revised to 1/22/10 was reviewed. He noted he had identified the area where the work was to be done, and had specified in the work sequence that all the invasive plants to be cut would be tagged and an on site meeting with the contractor and WEO held prior to the start of work. Mrs. Hill read the note on the plan. Mr. LaMuniere stated that he saw no potential impact on the wetlands. Mr. Neff noted the work sequence specifies that after the initial removal of the invasives, follow up manual applications of Round Up may be necessary. It would be either brushed on or applied by wand to the cut stems. Mrs. Hill asked who the expert would be who would identify the invasives. Mr. Neff said the expert had not yet been selected.

MOTION:

To approve Application #IW-10-03 submitted by Lyons- Gray for the removal of invasives and other vegetation at 82 Old Litchfield Road according to the "Invasive Vegetation Removal Plan," by Mr. Neff, revised to 1/22/10 and with the understanding that in addition Round Up will be applied by hand as necessary over the years.

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

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

Mrs. Hill asked if the section of wetlands where the work was done was accurately marked on the map.

A copy of the map, "Subdivision Prepared for a Portion of the Pearson Farm," dated December 1986 was reviewed. Mr. Ajello noted that although the stream was not indicated, the soil types were delineated. Mr. Ajello pointed out several wetland areas where clearing occurred. It was noted there had been machinery operating in the wetlands, but since the ground was frozen, there had been no ruts. Mr. Bedini noted that very little understory remained. Mrs. Hill asked if a citation had been issued and if not, why not. Mr. Ajello responded that a notice of violation had been sent, but he had not issued a citation because Mr. Barist wanted to Commission to rule on whether an application was actually required for the work done. Mrs. Hill said that since machinery had operated in the wetlands, a citation was required. Mr. Ajello noted that the woodchips spread were too thick to permit ferns and other vegetation to grow through. There was a brief discussion regarding how to handle clearcutting in wetlands and when citations should be issued. Mr. Bedini thought there was no clear answer, that this was a continual problem, and that each case had to be judged individually. Mr. LaMunier noted that in this case a canopy remained and the clearing had not extended beyond the stream. It was the consensus that the work done required a permit and that an application to correct a violation was required. Mr. Ajello said he would order Mr. Barist to remove the woodchips to a depth of one inch or less and ask him to submit an application to correct the violation.

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

Mr. Szymanski, engineer, submitted the 2/21/10 letter from Ms. Steers of the Roxbury Land Trust stating it had no concerns about the proposed work. The map, "Existing Conditions Map," by Arthur H. Howland and Assoc., dated 1/20/10 was reviewed. He noted a second story addition was proposed, the limit of disturbance had been marked, and hay bales would be installed to ensure that machinery would not get too close to the brook. He said there would be no soil disturbance and no stockpiling of materials.

MOTION:

To approve Application #IW-10-05 submitted by Mr. Carter to construct an addition to the existing dwelling at 141 Shinar Mountain Road.

By Mr. Bedini, seconded by Mr. Waderton, passed 5-0.

New Application

Forese-Swanson/41 Horse Heaven Road/#IW-10-06/Feasibility for First Cut:

The map, "Proposed Site Development Plan," by Mr. Neff, dated 2/22/10 was reviewed. Mrs. Swanson pointed out the existing structures and driveway. Mr. Bedini pointed out an intermittent stream and existing culvert and asked if the driveway would be upgraded. Mrs. Swanson said there was no need to do so. Mr. Bedini noted the only potential problem would be any work proposed within 100 feet of the intermittent stream. Mrs. Hill noted the application was for feasibility only; no work was proposed at this time. There were no other questions or concerns.

MOTION:

To approve Application #IW-10-06 submitted by Mrs. Swanson and Mr. Forese for the feasibility of a first cut at 41 Horse Heaven Road in accordance with the site development plan by Mr. Neff dated 2/22/10 with the condition that when the lot is developed, the owner return to the Commission for review of the final plans.

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

Other Business

Enforcement Report

Auth/329 West Shore Road:

Mr. Auth will submit an application for development of the shoreline. Mr. Bedini asked if the application should be reviewed by Dr. Kortmann. It was the consensus to find out exactly what was proposed before making this decision.

Brose/Roxbury Road:

The Commission is waiting for Atty. Zizka's review of the settlement proposal.

Charvillat/96 Roxbury Road:

A finish card was sent in, but the owner had not completed the required planting. Mr. Ajello has sent several letters, but there has been no response. He will investigate to determine whether a citation is appropriate.

Delancy/79 Litchfield Turnpike:

Mrs. J. Hill reported that Mrs. Delancy had come in to say they had not been able to live in their house for two months and needed more time to respond to the Commission's requests.

Mello/183 Woodbury Road:

The well was installed while the ground was frozen. The regrading will have to be completed after it thaws. Fiberglass mats had been used to access the site and the silt fence and hay bales will not be removed until the area is completely stabilized.

Martin/Gunn Hill Road: Mr. Ajello sent a letter to Ms. Martin regarding the new stonewall and drainage on the adjoining property as the Commission had requested at the last meeting.

Tangeman/84 Carmel Hill Road:

Planting for the vernal pool will be done this spring.

Tendler/66 Old North Road/Demolition and Reconstruction of Dwelling:

Mr. Ajello noted this project would take place 102 feet from the proposed house in a relatively flat area. Excavation would encroach slightly, but it was going to be a modular house, so the risk to wetlands would be low. Mr. Ajello did not think a permit was required and the commissioners agreed with him.

Walker Brook Farm, New Milford:

Mr. Ajello had nothing new to report.

Agent Approval

Jepson/144 East Shore Road:

Mr. Ajello presented photos of the existing stairs on East Shore Road. Narrower stairs with iron hand rails are proposed. The disturbance will be confined to the immediate area, the new stairs will result in less coverage, and the owner will put in plantings. The owner also proposes to relay the patio further up on the property. Mr. Ajello said there were no wetlands issues and noted that two catch basins on the state road are located 40 to 60 feet away in both directions. It was the consensus that an Agent Approval would be OK.

Administrative Business

A workshop with Atty. Branse was discussed. Two of the topics to be addressed will be how to create the record and agricultural exemptions. Several possible dates were selected and Mr. Bedini will contact Atty. Branse to schedule the workshop.

Mr. Bedini noted there was an upcoming meeting of commission chairmen and vice chairmen with the Board of Selectmen and said he would raise the issue of Fire Department specifications for driveways and bridges and dry hydrants. He recommended that the Fire Dept. draft standard written requirements, noting they would be helpful when reviewing applications such as the current Straw Man proposal.

Mrs. Hill thought the Commission could make determinations about appropriate driveway and bridge widths based on its own Regulations.

MOTION:

To adjourn the meeting. By Mr. LaMuniere.

Mr. Bedini adjourned the Meeting at 9:54 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,
Janet M. Hill
Land Use Administrator