

March 24, 2010

Public Hearing – Regular Meeting

5:00 p.m. Land Use Meeting Room

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

MEMBER RECUSED: Mr. Wadelton

MEMBER ABSENT: Mr. Bohan

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

ALSO PRESENT: Mr. Charles, Mr. Boling, Ms. Canning, Mr. Trinkaus, Mr./Mrs. Sonder, Mrs. Corrigan, Ms. Max-Fiss, Residents

PUBLIC HEARING

Straw Man, LLC./135 Bee Brook Road (Juniper Meadow Road)/ #IW-09-44/Bridge and Driveway/Con't.

Mr. Bedini reconvened the Public Hearing at 5:00 p.m. and seated Members Bedini, Hill, and LaMuniere. Mrs. J. Hill read the list of documents that had been submitted since the last session of the hearing.

Mr. Bedini explained that the Commission would consider all of the information in the record and not just what had been written on the application form.

Mr. Trinkaus responded to points raised in Mr. Sanford's 3/23/10 review. GC#1: Regarding the issue of the location of the right of way and the Condo Association's septic system on the adjoining property, Mr. Trinkaus noted the right of way is Straw Man LLC's only access to the property, there was already a cut slope near the septic system, and this was both a matter for the Health Dept. and a civil matter. GC#2: Mr. Trinkaus had no objections to periodic inspections and maintenance of the culverts and seepage envelope. GC#6: He said the Building Dept. would receive and review the structural plans for the bridge. GC#7: Mr. Trinkaus stood by his claim that the depth of flow against the west embankment would be 0.3 feet rather than 1.5 ft. in a 100 year storm event as indicated by Mr. Sanford. He used the cross section diagram to explain how the depth of flow was calculated and said he had submitted calculations to support his finding. GC#9: Mr. Trinkaus stated his 3/12/10 letter addressed the issue of justification for the proposed crossing as it listed the reasons the Commission should approve both the proposed 18 ft. wide bridge and driveway, but added that the applicant would accept a modification to narrow the driveway at the seepage envelope to 12 ft. wide as a condition of approval. He said future widening would be necessary to accommodate multi family housing, but said it could be done with impacts to the wetlands on only one side of the driveway. #2 under Additional Comments: In response to the question of whether the grading for the driveway could be accomplished entirely within the right of way, Mr. Trinkaus responded that the plans Lenard Engineering had reviewed were distorted and the scale had been "off." He stood by his plan. #GC14: Mr. Trinkaus said that supplemental plantings were addressed in Mrs. Corrigan's report. #C3: Mr. Trinkaus stated that his calculations were based on a grassed diversion swale. #C1: Mr. Trinkaus noted the proposed use of the property is not single family residential and so a narrower bridge could not be required. #C2: Regarding mitigation, Mr. Trinkaus said Mrs. Corrigan had addressed this in her report and that he hoped the Condo Assn. would work with the applicant to plant over a larger area because that would have a greater environmental benefit.

Mr. Boling, agent for the applicant, stated that the only appropriate use for a 12 ft. wide driveway was a single family dwelling, and there was no evidence that the applicant would propose to use her property

in that way. He noted that in a previous Zoning application for multi family housing the Zoning Commission and Fire Dept. had required an 18 ft. wide driveway for public health and safety. He argued that to approve a 12 ft. wide driveway that will have to be widened in the future to accommodate multi family housing would cause the wetlands to be disturbed twice and would result in more short term adverse impacts than necessary. He said if the Commission did not think an 18 ft. wide travelway was justified at this time, it could be reduced in width on the section of driveway over the seep, but the applicant would come back to get a permit to widen it later.

Mr. Bedini asked if the 18 ft. width requirement was the Zoning Commission's or the Fire Dept's.

Mr. Boling stated that the Fire Dept. had written that 24 ft. was required, but that the applicant had narrowed that to 18 ft. under 8-30g. He noted that the Zoning Commission's authority is limited regarding applications submitted under 8-30g (Affordable Housing), but that it does have jurisdiction regarding public safety, and that in the past Zoning required applicants to abide by the Fire Dept's recommendations. He said he hoped Zoning would accept an 18 ft. wide travelway.

Mr. Bedini asked if the applicant expected to get Zoning approval before constructing the bridge. Mr. Boling said he did not know.

Mr. Bedini noted that if Zoning did not think 18 ft. wide was adequate, the applicant would have to apply for a wider travelway. Mr. Boling explained that 18 ft. could accommodate two viable travel lanes, whereas, a 12 ft. wide driveway would serve a different function.

Mr. Bedini asked if the driveway would have shoulders. Mr. Trinkaus stated there would be 2 ft. shoulders on each side. He added that an 18 ft. wide travelway is the minimum safe width for two way traffic. Mr. Charles, agent, noted that in some cases a 12 ft. wide driveway with 6 ft. travel shoulders on each side would be adequate, but if the shoulders were not plowed there would be a problem with emergency access in the winter.

Mr. LaMuniere advised Mr. Boling that contrary to what was stated in Mr. Boling's 3/22/10 letter to the Commission, the IWC would review future development proposals for the property due to its steep slopes above the brook and due to concerns about stormwater management. Mr. Boling said he understood the applicant would have to return to the Wetlands Commission.

Mr. Sonder, intervener, stated that since the right of way was the only access to the property, it had to be well designed. He noted that the brook and wetlands had to be crossed and they would be impacted and harmed to some extent. He said approval of any plan that that would permit impacts beyond the absolute minimum necessary would not be acceptable because the damage done would be irreversible. He argued it was not yet known for certain that more than one or two houses would/could be built on the property or that if an affordable housing project were proposed, it would be approved, and so said the Commission could not determine that an 18 ft. wide bridge was required. He recommended that Straw Man return with a complete and comprehensive plan for the entire property so that the need for the 18 ft. wide driveway could be properly evaluated. He also had some technical concerns, which included 1) the grading would encroach on Condo Assn. property, 2) the construction plans for the diversion swale were erroneous, 3) the construction diagram provided for the bridge was inadequate as it could not be determined from the plans submitted how the banks of the brook would be impacted, and 4) the proposed driveway could interfere with the existing Condo Assn. septic leaching fields.

Mr. Boling and Mr. Charles cited examples of developments and subdivisions, which took years to complete once approved and said again that multi family housing was proposed and would be built on the property.

Mr. Sanford suggested that Mrs. Corrigan present her methodology and results so that there would be an opportunity to ask her questions.

Mrs. Corrigan stated she had inspected the site twice, the last time on March 17, and had used the Army Corps of Engineers worksheets to help prepare her report. Mr. Charles noted that she had also done an analysis of the entire property a year ago. She summarized some of the information in her report.

Mr. Sanford asked, what are the principal functions of the wetlands and how and where does the project enhance, diminish, or not change those functions? Mrs. Corrigan reviewed the functions of the seep and the flow of groundwater in the area and pointed out these areas on the map, "Wetland Crossing for Access Driveway," Scale 1" = 20," by Mr. Trinkaus, revised to 3/4/10.

Mr. LaMuniere remarked that the wetlands was a forested seep and that clearly the area was not pristine as there was evidence of woodcutting, it had previously been opened for cultivation, and it had invasive vegetation. He asked Mrs. Corrigan, if some trees were cut to install the seepage envelope, would this negatively impact the forest seep? Mrs. Corrigan responded that if all of the vegetation was removed, it could contribute to the drying of the forest floor. Regarding the hydrologic function of the wetlands, Mr. LaMuniere said there would be more water evaporating, but also more water would enter the seep. Mrs. Corrigan agreed, stating that the flow under the driveway would be maintained and the pipes would be installed at the same pitch as the current terrain. Mr. Trinkaus agreed this was so.

Mrs. Corrigan addressed the issue of mitigation. She recommended that the shrub layer be supplemented to cut down on the amount of light that would reach the wetland floor. However, she noted there was very limited space in the right of way near the wetlands for planting and said she hoped the applicant could work with the adjoining property owners to restore their property, too.

Ms. Max-Fiss noted this complex area changes greatly with each season, but that Mrs. Corrigan had inspected the property at only one time of year, and recommended she study it for a full year to observe all life cycles. Mrs. Corrigan noted the wetlands were visible at this time of year and that there was not time to conduct a year long study due to application deadlines. Mr. Bedini further explained there are deadlines per state statutes, so in practice a year long study would not be possible. He also noted that conditions differ over the years so it would be unreasonable to put off the application for a year.

Mr. LaMuniere asked about the functions of the lower wetlands. He noted they were deforested and had many invasives growing, and asked if they could be considered a special habitat for wetlands dependent species. Mrs. Corrigan stated that although she had not observed any, the entire Rt. 47/Shepaug and Bantam Rivers corridor could be used by wood turtles.

Mr. LaMuniere asked how the construction of the bridge would impact that habitat. Mrs. Corrigan stated that the bridge, unlike a culvert, would not be an impediment for all wildlife movement and would cause only minimal disturbance in the uplands.

Mr. Bedini asked about temporary impacts. Mrs. Corrigan said the small scale impacts would heal quickly. She was concerned that if water temporarily pooled along the edge of the driveway or collected in tire ruts that sensitive species like the spotted salamander might lay their eggs there, but she thought this unlikely because 1) the ruts would not hold the water long enough and 2) Mr. Trinkhaus's design of the swale would prevent this from happening. She stated she did not anticipate any long term impacts because the construction plan and cantilevered bridge design would allow both the current animal movement and water hydrology to be maintained.

Mr. Trinkaus commented on the diversion swale above the retaining wall and said the curtain drain would intercept the groundwater. He also thought that the native species in the area would sprout and recolonize when there was more sunlight as a result of cutting down some trees for the driveway. He offered to submit a specific plant list of the plants to be used for mitigation as a condition of approval.

Mr. Sanford noted his last letter dated 3/23/10 included the review of the seven supplemental items submitted since the last meeting and that even though the information presented tonight by Mr.

Trinkhaus had not been fully reviewed, in his opinion the Commission had enough information to close the hearing and render a decision.

Regarding #GC7 in the above referenced letter, Mr. LaMuniere asked Mr. Sanford if he was satisfied with Mr. Trinkaus's response to his questions about the depth of flow in the channel at the bridge during the 100 year storm event. Mr. Sanford stated there was still a "slight difference of opinion" about the calculations. Mr. LaMuniere did not think the difference was insignificant due to the potential for erosion.

Mr. Trinkaus noted the abutments had now been moved 40 feet apart. He explained how the contours had been plotted and that a fully dimensional cross section had been made, and said Manning's equation had been used to compute the flow area of the 50 sq. ft. taking into account the 40 ft. span. He said he would submit scour analysis at the time of construction. He stated that .3 would cause no erosion problem because the greatest velocity would be in the middle of the channel, not at the edges.

Mr. LaMuniere asked Mr. Trinkaus if he maintained there would be only 4 inches of overflow in a 100 year storm. Mr. Trinkaus said he did.

There were no other questions or comments from the commissioners or from the public.

Mr. Bedini closed the public hearing at 6:17 p.m. and noted that although Straw Man, LLC. was also listed on the agenda under Pending Applications, there would be no action taken tonight.

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

REGULAR MEETING

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

MEMBER ABSENT: Mr. Bohan

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

ALSO PRESENT: Ms. Cheney, Mr. Neff, Mr. Szymanski

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

MOTION:

To include the following subsequent business on the Agenda:

V. New Applications:

B. Auth/329 West Shore Road/#IW-10-10,

C. Rosenblatt/229 Calhoun Street/#IW-10-11/Driveway Culverts and Piping,

VIII. Administrative Business:

B. Discussion re: commissioners' credentials for the public record,

IX. Communications:

C. 3/15/10 letter from Forest Practices Advisory Board to the IWC.

By Mr. Wadelton, seconded by Mr. LaMuniere, passed 4-0.

Consideration of the Minutes

The 3/10/10 Public Hearing-Regular Meeting minutes were accepted as corrected.

Page 3: 5th paragraph, 1st line: Change: "was" to "has."

Page 4: 4th paragraph, 1st line: Change: "consulting engineer" to "consultant."

Next to the last line: Change: “areas” to “issues.”

Page 8: Under Beckett: 1st line: Insert: “would” before “make.”

MOTION:

To accept the 3/10/10 Regular Meeting minutes as corrected.

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

The 3/17/10 King site inspection minutes were accepted as corrected.

Under Observations:

3rd line from end: Should state: “...plants native to the state...”

Change the last sentence to: “The roadbed will be removed from the wetlands.”

MOTION:

To accept the 3/17/10 King site inspection minutes as corrected.

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

Pending Applications

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

This application will be discussed at the next meeting.

King/153 Lower Church Hill Road/#IW-10-08/Dredge Pond, Construct Rain Garden:

It was noted that an approval letter from Steep Rock Assn., the holder of the conservation easement, had not yet been received. Mr. Szymanski, engineer, asked that this be made a condition of approval. The plans, “Overall Site Improvement Plan, 4 sheets, by Arthur H. Howland and Assoc. revised to 3/22/10 were reviewed. Mr. Szymanski summarized the proposal to dredge the pond, place the spoils in the upland area, remove the invasive plants from a 2 to 3 acre area, and replace the plants removed with non invasive plants native to Ct. Mrs. Hill asked if a planting plan had been submitted. Mr. Szymanski said, no, and that where an invasive plant was removed, a native plant would be planted except at the “ledge edge” where a seed mix and wetland plantings would be used. He stated that no species would be planted in the pond itself. He noted that the area would be monitored to make sure the invasives were not growing back, and said, if so, the applicant would return to ask for modifications. Mrs. Hill suggested that if wetlands vegetation was planted closely around the edge of the pond, it would help to impede the spread of invasives in that area. Mr. Szymanski read the narrative on the plan re: the removal of the invasives and explained the phragmites in the pond would be dug out by machine to a depth of 4 to 6 feet. The other invasives would be removed by hand and hand treated with chemicals. Mr. Szymanski also noted that the owner would no longer mow right next to the pond. The proposed erosion control measures for the project were reviewed.

MOTION:

To approve Application #IW-10-08 submitted by Mr. King to dredge the pond and install a rain garden at 153 Lower Church Hill Road per the plans by Arthur H. Howland and Assoc., dated 3/3/10 and revised to 3/22/10 with the condition that the letter from Steep Rock Assn. stating the proposed work complies with the terms of the conservation easement is received.

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

Klein/___ West Shore Road/#IW-10-09/Install Stairs and Floating Dock:

Mr. Neff, engineer, represented the applicant. In response to the brief 3/24/10 list of information missing from the application form, he stated that the Assessor had not yet given the property a street number. He explained the location selected for the stairs and dock was along a straight section of West Shore Road. He circulated several photos of the site and pointed out the cross section and sequence of construction on the plan, “Proposed Dock Plan,” by Mr. Neff, revised to 3/20/10. The location of the

property was also discussed and noted on the map, "Site Analysis Plan," by Mr. Alex, dated October 2009. Mr. LaMuniere asked for confirmation that the state DOT had approved the plans. Mr. Neff said he would be meeting with the DOT soon and expected that a permit would be granted. Mr. Neff said the proposed dock would have removable anchors to keep it in place and would extend 40 feet from the shoreline if approved by the Lake Waramaug Authority. Mr. Ajello noted the size of the dock might have to be decreased to comply with the Zoning Regulations. A site inspection was scheduled for Wednesday, March 31, 2010 at 4:00 p.m.

Rosenblatt/229 Calhoun Street/#IW-10-11/Driveway Culverts and Piping:

Mr. Neff, engineer, explained the erosion problem, which had been occurring over the years on the steepest section of the driveway. The map, "Driveway Catch Basin Plan," by Mr. Neff, revised to 3/22/10 was reviewed. He proposed the installation of two small catch basins and under the driveway an 8 inch pipe with a modified rip rapped outlet to serve as a spreader at the outflow. He presented photos of the two eroded sections of the driveway and said piping the runoff underneath would prevent it from reoccurring in the future. The commissioners were familiar with the site and did not think an inspection was necessary because the photos were adequate.

Auth/329 West Shore Road/#IW-10-10/Install Dock and Shoreline Work:

Mrs. Hill reported that the application was incomplete. Mr. Bedini read her 3/24/10 review, which listed the missing information. In particular, the fee had not been paid, a scaled map of the property with accurate measurements had not been submitted, and specific information about the amount of materials to be deposited had not been provided. It was the consensus that the application was not complete and would not be accepted. Members will conduct a drive-by inspection on Wednesday, March 31, 2010 at 4:30 p.m. immediately following the Klein site inspection.

Pond/West Shore Road/Dock:

Mrs. Hill asked why this application was not on the agenda. Mr. Ajello said he did not think it was necessary for a floating dock that was not attached to the shoreline to be considered by the Commission. Mrs. Hill noted there was a difference between floats and docks, said the Commission had always been concerned about how docks were connected to the shoreline, and said she did not understand why there should be a change in policy. Mr. Ajello noted this dock would be attached to the boathouse, not to the shoreline. A lengthy discussion followed. It was agreed that no application would be required in this case, but there was no consensus about how to handle these applications in the future. This question will be raised at the workshop with Atty. Branse.

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

Mr. Ajello reported that he had sent the Delancys a letter earlier in the month regarding the specific information the Commission had requested in September and that Mrs. Delancy had come into the office to discuss it with him. Mrs. Delancy apologized to the Commission for the delay, but explained that due to the recent damage to her home and vehicles she could not afford to make any improvements to the property. She noted she had cut some invasives and asked the Commission what she could do to close the matter tonight. The Commission advised her that in the wetlands soil disturbance, removal of vegetation, use of machinery, parking that compresses the soil, and activities that pollute are not permitted. Mr. Bedini said he would have no problem with the cutting of the remaining tall pine trees, but did not want a wood splitting operation in the wetlands. Mrs. Delancy agreed that her family would not use ATV's, park, or do wood splitting in the wetlands. Mr. Ajello noted that the wetland boundaries were now known. Mr. LaMuniere gave a brief summary of the violation and enforcement action and noted that the Commission had requested additional specific information so that it could consider the farming application. Mrs. Delancy stated they no longer had plans to farm, would let the area grow back naturally, and would contact the Commission when the trees will be cut. Mr. Bedini asked her to inform the Commission how many trees would be cut, where the wood would be put, and how the work

would be done so that guidance could be provided if necessary. Due to the unusual extenuating circumstances, the Commission deferred the collection of the fine. If the property is restored and there are no further violations, it may decide to waive the payment, but if there are any additional violations, payment of both the old and new citations will be required.

Other Business

Walker Brook Estates/Rt. 109, New Milford:

Mr. Bedini reported that he had discussed the 2010-2011 budget with the Selectmen. They had advised him that should the proposed \$1500 be spent for baseline testing of Walker Brook and if it was later determined based on those results that there was pollution of the brook resulting from the subdivision, the Town of Washington did not intend to take New Milford to court. Therefore, Mr. Bedini did not think the expenditure would be worth the price. Any future problems resulting from this subdivision will be reported to the New Milford EO.

Referral from the Town of Kent:

An application from Mr. Bibb at 72 Lake Waramaug Road for an electrical conduit was briefly reviewed. It was determined that a response to Kent was not necessary.

Enforcement Report

Brose/213 Roxbury Road/Unauthorized Clearing and Structure/ #IW-08-V5:

Mrs. Brose returned a signed copy of the consent order by fax. Mr. Ajello will get her original signature, and then Mr. Bedini will sign the agreement.

Beckett/23 Loomarwick Road:

The erosion controls, sediment basins and hay filters, worked well during the last moderate rainfall.

Charvillat/96 Roxbury Road:

Mrs. Charvillat had been out of the country and had not received the letters sent by Mr. Ajello. Her caretaker reported that she will contact the office soon.

Administrative Business

Mr. Ajello reported that the state is offering residents excess fill from highway work, but said he would not sign off on receipt of these soils in Washington due to possible contamination. He will consult with the Selectmen about establishing a policy.

Atty. Branse will address the Commission on wetlands issues and answer questions from the commissioners at a Special Meeting on Thursday, April 8, 2010 at 5:00 p.m. This meeting will be for the Inland Wetlands Commission and if it is successful, additional meetings may be scheduled and other land use commissions invited to attend.

Keeping commissioners' resumes and credentials on file in the Land Use Office and in the files of applications for which public hearings are being conducted was discussed. It was noted these resumes are relevant in cases when a commissioner disagrees with the testimony of an expert. It was the consensus that these are voluntary and should be placed in an application file only upon the specific request of a commissioner. This will be one issue that Atty. Branse will be asked to comment on.

Communications

The March 2010 letter and brochure from King's Mark Resource Conservation and Development Area,

Inc., an organization available to the land use commissions for environmental reviews, were briefly reviewed.

The commissioners were reminded that Mr. Talbot will address the 3/25/2010 Board of Selectmen's meeting concerning conceptual plans for development in the Depot, particularly in the vicinity of the Old Town Garage at 16 Titus Road.

It was noted that forms by the Forest Practices Advisory Board to be submitted to the Inland Wetlands Commission by timber harvest applicants had been received in the Selectmen's Office. Mr. Bedini will consult with Mr. Lyon about the timber harvest application process and procedures.

There was no reason to go into Executive Session.

MOTION:

To adjourn the Meeting. By Mrs. Hill.

Mr. Bedini adjourned the Meeting at 9:46 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

By Janet M. Hill, Land Use Administrator