

June 9, 2010

7:00 p.m. Land Use Meeting Room

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

MEMBER ABSENT: Mr. Bohan

ALTERNATES PRESENT: Ms. Cheney, Mr. Martino, Mr. Papsin

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

ALSO PRESENT: Atty. Olson, Mrs. Keating, Mr. Wilson, Mr. Neff, Mr. Clark, Mr. Talbot, Mr. Rosiello, Mrs. Wang, Mr. Herman

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

Enforcement

Auth/329 West Shore Road/#IW-09-V06/Violation of Permit #IW-10-10

Mr. Wilson, engineer, submitted the plan, "Shoreline Improvements," by Mr. Wilson, dated 9/2/2010. He stated that a surveyor had provided the contours and elevations and that he had prepared the plan with the final grades. He noted the base course of stone would be left in place and that Diagram BB was a cross section through the proposed new dock anchor. Photos of the work done to date were reviewed. Ms. Cheney asked if the bottom row of stones in the photo would remain in place and if they had been existing or had been moved there when work began. Mr. Wilson said that some had been there. Mr. Bedini said the stones in the row below the water had been placed there. Mr. Ajello presented a photo of the original shoreline for comparison. Ms. Cheney pointed out an area where she said it looked like there had been a lot of filling, but Mr. Wilson responded that had not been done. Mr. Bedini asked if the plan now proposed a row of stones that would be 1.5 feet above the lake bottom. Mr. Wilson said, yes, and from the back of those 1.5 ft. high stones, it would slope up. Ms. Cheney and Mr. Papsin noted the note on the map states that all rocks recently placed would be removed. Mr. Wilson said this note referred only to those rocks recently placed above the base course. Mrs. Hill noted the base course was to be 26 ft. from the edge of the road and asked if those rocks had been there before work began. Mr. Wilson said the rocks there were approximately what had been there before. Photos taken before and after the start of work were compared. Mr. Bedini said the width of the disturbed area had increased. Mr. Wilson responded it had always been 36 to 38 feet. Mr. Bedini countered that it had increased from 30 feet to 40 feet. There was a brief discussion regarding which were the "existing" stones. Mr. Wilson stated he had understood the existing stones were those in place when the matter had been last discussed with the Commission. After reviewing the photos, Ms. Cheney and Mr. Papsin thought the shoreline had been built out. Mr. LaMuniere noted there were now two levels proposed in the new plan. Mr. Wilson explained the two separate slopes. Mrs. Hill said she had not understood when this had been discussed at the last meeting that there would be a 1.5 ft. high rock wall at the water's edge at the 26 ft. mark. Mr. Ajello noted in addition to the differences already noted, the Commission had originally approved a 4 ft. wide rock anchor, a 4.5 ft. wide anchor had been discussed at the last meeting, but a 5 ft. wide rock anchor was proposed in the new plan. He added the 5 ft. rock anchor would be bolstered on both sides, making it actually 8 ft. wide and it would fan out to a width of 10 ft. as it got farther from the lake. Mrs. Hill again stated the plan presented was not what she expected based on the discussion at the last meeting. Mr. Bedini asked the commissioners if they understood the proposal. No one had any questions.

MOTION:

Because this has exceeded the scope of the work we originally permitted and based on the new

engineered drawing of 6/4/10, the work done to date, and the photos taken of the site both before and after, I move that we invoke the provisions of Section 15.05 of the Washington Inland Wetlands Regulations that are dated February 3, 2009 and begin the process of revoking the permit because this is significantly different than what was originally approved and we have an obligation to issue proper notice of what is being done and to process it so to make an independent determination of what is proposed, so I think we could encourage them to submit another application and revoke this one and start revocation proceedings.

By Mr. Bedini, seconded by Mr. Wadelton.

A brief discussion followed.

Mr. LaMuniere stated that based on the Commission's previous discussion with the applicant, the proposed contour lines showing two separate plains and a different kind of slope, were not what the Commission had agreed to. He noted the slope down to the water was important because it would diffuse the wave action. He stated he agreed with the motion. Mrs. Hill said a 1.5 ft. high rock wall at the point 26 ft. from the edge of the road was not what had been agreed upon at the last meeting. She said the rocks at this point were supposed to as close as possible to the lake bed and there was not supposed to be a rock wall. Mr. LaMuniere said he had understood that the anchor block was the only part that was supposed to be vertical. Mr. Wadelton agreed.

Vote: 5-0.

Mr. Bedini noted a hearing would be held on Wednesday, June 16, 2010 at 7:00 p.m. in the Land Use Meeting Room at which time Mr. Auth could argue why Permit #IW-10-10 should not be revoked.

Consideration of the Minutes

The 5/26/10 Regular Meeting minutes were accepted as corrected.

Page 1: Add Mr. Herman to those present.

Page 3: 2 lines from bottom: should be: Mrs. J. Hill

Page 7: 8 lines from bottom: should be: Mrs. J. Hill

MOTION:

To accept the 5/25/10 Regular Meeting minutes as corrected.

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

The 6/8/10 Keating site inspection minutes were accepted as corrected.

1) The correct address is: 68 West Shore Road.

2) The correct spelling is: Mr. LaMuniere.

MOTION:

To accept the 6/8/10 Keating site inspection minutes as corrected.

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

MOTION:

To accept the 6/8/10 Sachs site inspection minutes as written.

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

The 6/8/10 Wang site inspection minutes were accepted as corrected. Throughout the report the number of trees cut should be preceeded by "+/-."

MOTION:

To accept the 6/8/10 Wang site inspection minutes as amended.

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

Pending Applications

Keating/68 West Shore Road/#IW-10-18/Repair Stairs, Install Anchor Block:

Photos taken during the site inspection were circulated. Mrs. Hill noted it was a “very tight spot.” Mrs. Keating submitted written responses to the questions raised in Mrs. J. Hill’s 5/26/10 review and a revised drawing dated 6/9/10. The size and location of the anchor block were discussed. Mr. LaMuniere asked if other ways to access the dock had been considered and for the final dimensions of the block. Mrs. Keating said there had originally been a 5 ft. X 8 ft. pile of rocks, but said the proposed block would be pushed up against the bank as far as possible so she would have just 3 feet to stand on. She said she could not afford to build a new dock structure and a concrete pour would be easier to accomplish than the installation of pilings. She said an expert on lakeshore concrete pours would do the work. Mrs. Hill asked how far into the lake the anchor block would protrude. Mr. Ajello asked her to point this out on the photo. She indicated it would not extend farther out into the lake than the existing pile of rocks.

MOTION:

To approve Application #IW-10-18 submitted by Mrs. Keating to repair the stairs and install an anchor block at 68 West Shore Road per the drawing submitted on 6/9/10 and the written responses dated 6/4/10.

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

It was noted the permit is valid for two years.

Sachs/35 Potash Hill Road/#IW-10-19/Repair Drainage:

Mr. Neff, engineer, again reviewed his plan, “Drainage Repair Plan,” dated 4/30/10. He said there had been no revisions since the last meeting. He summarized the proposal he had previously detailed. The damage to the north end of the pond was the result of water flowing over the hay field instead of into the clogged drainage pipe. A swale will be installed to direct the runoff to the proposed silt basin and a 12 in. pipe installed from the basin to the inlet of the pond. Eroded areas will be rip rapped. Mr. Neff pointed out the location of the proposed erosion controls. Mrs. Hill thought there were wetlands in the area where the pipe was proposed. Mr. Neff said this was possible. It was the consensus there were no problems with this application.

MOTION:

To approve Application #IW-10-19 submitted by Mr. and Mrs. Sachs for drainage repairs at 35 Potash Hill Road in accordance with the plan, “Drainage Repair Plan,” by Mr. Neff, dated 4/30/10.

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

This permit will be valid for two years.

New Applications

Whittenberg/24 Horse Heaven Road/#IW-10-20/Demolish, Reconstruct House:

Mr. Neff, engineer, presented his plan, “Proposed Site Plan,” revised to 6/2/10. He explained the house would be rebuilt in the same area outside the regulated area, but would have a different footprint. A footing drain was proposed 16 feet from wetlands on the adjoining property. He briefly reviewed the other work proposed outside the regulated area. Mr. Papsin asked what would be done with the excavated material. Mr. Neff stated it would be hauled off site. Mr. Bedini asked that this be added as a note on the plan. Mr. Ajello did not think the stockpile area shown on the plan was adequate and asked that additional stockpile areas be added. There was discussion about scheduling a site inspection, but this was not done.

Frog Hill, LLC./91 Nettleton Hollow Road/#IW-10-21/Lot Line Revision, Construct Driveway:

Mr. Neff, engineer, presented the plan, "Proposed Site Development Plan," by Mr. Neff, dated 5/29/10. He noted there is an existing driveway, which was approved by the Commission in 1995. The first 650 feet, including the wetlands crossing, have already been installed. The existing 15 in. culvert pipe would not be disturbed. Mr. Neff explained the only work now proposed within the regulated area was 1) some regrading to bring the driveway grade below 15% and 2) installation of a conduit along the driveway edge. Mrs. Hill asked if the conduit would impact the wetlands. Mr. Neff said there would be no impact because the grading had already been done. Mr. Neff pointed out the proposed lot line revision and noted that if a future owner wanted to subdivide, there was an existing right of way to the potential lot. Mr. Bedini strongly suggested that a conduit to the potential lot be installed at the same time as the proposed conduit so the area would not have to be disturbed again in the future. A site inspection was not scheduled because the site was so overgrown.

141 West Shore Road, LLC./141 West Shore Road/#IW-10-22/Repair Septic System, Install Patio and Handicapped Ramp, Reconstruct House, Rebuild Shoreline Wall, Install Dock, Remove Invasives, Control Flooding:

Mr. Clark, engineer, pointed out the wetlands and the intermittent stream on the map, "141 West Shore Road, LLC. Building Improvements," by Oakwood Environmental Associates, dated 5/27/10. He briefly listed the following proposed activities: 1) installation of a 12 ft. by 16 ft. floating platform with a 24 ft. walkway, 2) rebuilding of the existing shoreline wall, 3) installation of berm to prevent stream from flooding over its banks, 4) installation of rip rap on the stream embankments, 5) installation of curtain drain and swale to protect septic system from seasonal high groundwater, the swale to discharge into the intermittent watercourse. Mr. Ajello asked if the pocket of wetlands in the back yard could have been caused by the continual overflowing of the stream. Mr. Clark said this was likely. Mr. Ajello said he was concerned that the proposed berm and rip rap could change the character of the existing wetlands. Mr. Clark responded this was possible, but was needed to protect the house and driveway from flooding. Dock: Mr. Clark said he had selected the dock area due to the location of a large existing rock that could be used as the dock anchor, the existing stairs, and the 25 ft. side yard setback requirement. Stonewall: The applicant proposed to reconstruct 120 feet of shoreline wall. Mr. Ajello noted the wall was collapsing in spots and asked if the Commission automatically approved the rebuilding of existing walls. Mr. Clark explained the proposed reconstruction. The work would be done in sections and more stone would have to be brought in because the base at the bottom of the wall would be made "thicker." Soil would be placed behind the wall. Four or five trees along the top of the wall would be cut because their roots pushed out sections of the wall. Mr. Bedini noted the Commission was trying to keep the lake from being walled in. Mr. LaMuniere noted the Commission had, in the past, permitted the reconstruction of stone walls around the lake, but in this case it was proposed to widen the base and so it would be a different wall that was constructed. Mr. Ajello thought "nothing would be lost" by reinforcing the base of the wall. Mr. Bedini asked if only the sections in need of repair could be worked on. Mr. Ajello said that would be an option. Mr. Clark stated there would be no new excavation beyond what was absolutely necessary and the existing base stones would be left in place. Mr. Bedini then asked if all of the existing stones would be taken out and Mr. Clark said they would be and securely restacked. All of the stones on site would be reused and additional stones brought in. Mr. Bedini suggested that a limnologist review the plans. Mr. Ajello asked if the Commission would like a photo of a similar wall with similarly sized stones, no mortar, etc. so it would know in advance what to expect. Mr. Bedini stated that more detail was needed and that if the reconstruction was approved, there would be no changes to the approved plan. He noted the plans submitted were not sufficient. They did not include the amount of stones to be brought to the site, the dimensions of the proposed wall, where the machinery would operate, how far down the base would be built, etc. Mr. Talbot, architect, noted there was a 5 ft. drop from the road to the lake and said if the wall failed, both the road and the ecosystem would be affected. Mr. Wadelton thought there might be

reasonable alternatives to the proposed reconstruction of the wall. Mr. Bedini asked if the current disrepair of the wall had caused any erosion. Mr. Clark said it had not. House, Patio, Handicapped Ramp: Mr. Clark said this work was proposed in upland soil, but within 100 feet of wetlands. Mr. Bedini asked for a more complete narrative and construction sequence. Stairs to Lake: Mr. Talbot said the owner would like to widen the stone stairs, which are pre existing, non conforming under the Zoning Regs. Mr. Bedini advised him to submit a proposal, which the Commission would consider based on the impact that might result. It was the consensus that a site inspection should be conducted before the Commission tried to answer specific questions from the applicant. A site inspection was scheduled for Monday, June 14, 2010 at 4:30 p.m.

Sullivan-Ahearn/7 Warren Road/#IW-10-23/Dredge Pond, Repair Weir, Remove Invasives:

Mr. Rosiello, landscape designer, submitted photos of the property and said he would address the issues noted in Mrs. J. Hill's 6/9/10 review. He asked the Commission if the map submitted would be sufficient, noting that there was no survey map on file in the Town. He stated the pond is approximately 83 ft. by 35 feet with a 26 ft. long weir and that 6 ft. of its headwall had buckled. In response to an issue raised in the 6/9 review, Mr. Rosiello said he had measured the distance to the Litchfield town line and it was 512 feet and therefore, notification to Litchfield by certified mail was not required. Mr. Rosiello also stated he would be responsible for inspecting the silt fence, and all invasives would be removed by hand. The pond would be dredged with a drag line or excavator after it had been dewatered and either hay bales or silt fence installed to trap the silt. Fifty yards of the dredged material would be used on site and the remainder would be hauled away. Mr. Rosiello thought there was 3 to 6 ft. of muck in the center of the pond. He said he would aim for 3:1 side slopes after the dredging. Mr. LaMunier stated that a more detailed sketch was required. Mr. Rosiello said he would respond in writing to the 6/9/10 review by the next meeting. A site inspection was scheduled for Monday, June 14, 2010 at 5:15 p.m.

Enforcement

Wang/110 Blackville Road/#IW-09-V07/Unauthorized Clearing and Driveway:

Mrs. Wang and Mr. Herman, contractor, were present. Mr. Bedini asked them what they planned to do with the pile of debris. Mrs. Wang claimed this pile had been there for years and Mr. Herman said he had only added a few vines to it and had smashed it down with the excavator. Mr. Ajello noted machinery had crossed the brook. Mr. LaMunier recommended the pile be cleaned up and new trees be planted to restore the canopy over the stream that had been lost when all the trees had been cut down. Mr. Papsin suggested that small native shrubs also be planted and said there would be less disturbance now, if the brush pile was left in place. Mr. Ajello said that normally a mix of trees and shrubs is recommended to restore the lost canopy, stabilize the disturbed streambanks, and recreate the lost environment. Mrs. Wang said the vegetation was already growing back, but she would plant some trees, if required to do so. Mr. Herman asked if he could sow wild flower seeds. Mr. Papsin responded their roots would not be adequate to hold the streambank. Mr. Ajello recommended Mrs. Wang hire a consultant to draw up a planting plan to restore the disturbed area. He said a consultant could identify the types of plants that had been removed and could recommend appropriate kinds for replanting. Mr. Herman said ferns and prickles were growing back. Mr. LaMunier noted the Commission had required Mrs. Brose to hire a consultant to draft a restoration plan to restore the environment, protect the brook, and keep out invasives and thought the Commission should act in a consistent manner in this case. Mr. Bedini asked that the restoration plan include the type of plants to be planted, how many, what size, and where they would be planted. Mrs. Hill recommended Mrs. Wang consult with the Northwest Conservation District. The driveway was briefly discussed. Mr. Herman said it had always been there and he had just put down some stone for better traction. Mr. Ajello said that now that it was an actual

driveway, a driveway permit from the Selectmen's Office was required. Mr. Ajello will send an enforcement order with a description of everything Mrs. Wang is required to do. This will not be sent until the beginning of July so that a Show Cause hearing may be held at the July 14th meeting. Mrs. Wang was also told to clean up the oil spill. Mr. Ajello will issue a citation for a first offense in wetlands.

Andersson/35-45 Gunn Hill Road:

Mr. Ajello said the restoration work would be done on June 15 and that Mr. Allan of Land Tech would be there to observe.

Brose/213 Roxbury Road:

Mrs. Brose is getting estimates for the restoration work and Mr. Ajello said she would post her bond next week. He said the structure would be removed first and the disturbed area stabilized prior to the replanting.

Charvillat/96 Roxbury Road:

Mr. Ajello sent three enforcement letters over the winter. He inspected the property and the required planting has not yet been completed. If he does not hear from Mrs. Charvillat in a week, he will send her a fine.

Delancy/7 New Milford Turnpike:

The wood chips have been removed, but the planting has not yet begun.

Devereux Glenholme School/81 Sabbaday Lane/#IW-09-V05:

An application for the unauthorized excavation was expected a month ago. Mr. Ajello said he had already sent a notice of violation. He will contact the school.

Lodsin/78 Litchfield Turnpike/#IW-07-V12:

Some mowing was done on the property.

Town of Washington/16 Titus Road/#IW-09-V02:

Mr. Ajello said Phase I of the clean up would soon be completed and the disturbed areas seeded. The stockpiles have been processed and the debris removed from the site. Mr. Bedini noted the property is located in the floodplain and noted how the work proposed at the Primary School required review by the Army Corps of Engineers because it, too, is in the floodplain.

Rosen/304 Nettleton Hollow Road/#IW-08-V2:

Mr. Ajello will contact the Army Corps of Engineers for an update on the enforcement of this violation.

Slaymaker/17 Sunset Lane:

Mr. Slaymaker has only minor work to do before his bond may be returned.

Administrative Business

Proposed Wall Work at 141 Lake Shore Drive:

Mr. Bedini wondered, if a stone wall was taken down, would the Commission be required to approve a replacement wall just because there used to be a wall there. Mr. Ajello did not think the Commission could prevent repairs. Mr. Martino pointed out that the reconstruction proposed at 141 West Shore Road included an increase in the base of the wall. Mr. LaMunier thought the Commission should be careful to make sure repairs were done, but not allow the construction of a new wall. Mr. Ajello thought dismantling of the wall would be necessary to do work at the bottom. Mr. Wadleton thought alternatives should be considered. Ms. Cheney noted that five trees would be cut and asked if removal of the canopy was an issue. Mr. Ajello said it was and suggested that maples be planted farther from the wall. Mr. Bedini again recommended that a limnologist be consulted. Mrs. J. Hill recommended that if

the application is referred to a limnologist, he be asked to address alternatives and whether the work proposed should be done at all so that his report would include more information than just how to best accomplish the reconstruction proposed. Mr. LaMuniere agreed and compared this application to the work the Commission approved to repair the existing wall at Daly's, also located on West Shore Road.

Workshop on Commission Policies and Procedures:

It was the consensus a workshop would be helpful. It was scheduled for 6:00 p.m. on July 21. The location will be decided at a later date.

Revision of the Regulations:

Mr. Ajello suggested Section 15.05 could be revised for clarity. There are also a few revisions that may be required due to recent changes in the state statutes.

MOTION:

To enter Executive Session to discuss pending litigation: Federer vs. Inland Wetlands Comm. at 10:29 p.m.

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

MOTION:

To end Executive Session at 10:33 p.m.

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

MOTION: To adjourn the Meeting. By Mrs. Hill.

Mr. Bedini adjourned the Meeting at 10:33 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,
Janet M. Hill
Land Use Administrator