

# September 1, 2010

## Show Cause Hearing – Regular Meeting

6:30 p.m. Land Use Meeting Room

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

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

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

**ALSO PRESENT:** Mrs. Wang, Atty. Sconyers, Mr. McMorrow, Mr. Harris, Mr. Szymanski, Mr. DuBois, Ms. Gager, Ms. Armstrong, Mr. Clark, Mr. Lappala, Mr. Meeker

## SHOW CAUSE HEARING

Wang/110 Blackville Road/#IW-09-V07/Unauthorized Driveway and Clearing/Con't.

Mr. Bedini reconvened the Show Cause Hearing at 6:33 p.m. and seated Members Bedini, Bohan, Hill, LaMuniere, and Wadelton.

Mrs. Wang presented a planting plan, no signature, no date. She noted the areas shown in green had already grown back and she proposed ten 12 – 14 ft. tall Norway maples where indicated in red. She said the planting would be done in October.

The type of tree to be planted was discussed. Mrs. Wang proposed Norway maples because they are fast growing, but Mr. Ajello pointed out they are not native. Mrs. Wang agreed to plant a mixture of red and sugar maples.

Additional requirements for planting were discussed. These included: 1) deer protection, 2) watering before the frost, 3) mulching with 3 inches of shredded bark, and 4) planting in a random pattern.

Mrs. Hill asked if an application to correct a violation had been submitted and said she did not think this was necessary. An application had not been submitted. The 7/6/10 enforcement order was reviewed to make sure Mrs. Wang had complied with all requests.

### MOTION:

To remove condition #5, which requires the owner to submit an application to correct a violation, from the 7/6/10 enforcement order for Wang/110 Blackville Road/#IW-09-V07/unauthorized driveway and clearing.

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

### MOTION:

To close the Show Cause Hearing to consider whether the 7/6/10 Enforcement Order issued to Mrs. Wang for unauthorized tree removal and driveway at 110 Blackville Road should remain in effect.

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

Mr. Bedini closed the hearing at 6:50 p.m.

## REGULAR MEETING

Mr. Bedini called the Meeting to order at 7:01 p.m. and seated Members Bedini, Bohan, Hill, LaMuniere, and Wadelton.

### MOTION:

To add the following subsequent business to the agenda:

VI. Other Business:

B. Request by Myfield, LLC. to renew Permit #IW-05-54 for affordable housing at 7 Mygatt Road,  
C. Matteo/176 West Shore Road/Shoreline Repairs,

VII. Enforcement:

N. Popkin/30 Tinker Hill Road/Unauthorized Shoreline Work,  
O. 141 West Shore Road, LLC./141 West Shore Road/Violation of Permit #IW-10-22,  
P. Denscot Pool and Spa/269 New Milford Turnpike/Unauthorized Expansion of Storage and Parking,

VIII. Administrative Business:

B. Motion Template,

C. Election of Officers for 2010-2011.

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

**Consideration of the Minutes**

The 8/11/10 Show Cause Hearing/Regular Meeting minutes were accepted as amended.

Page 2: 4 lines above Devereux motion: Change: "engineer" to "consultant."

Page 4: bottom line: Change: "suggest" to "suggested."

Page 5: in the motion for Town of Washington/108 N. Milford Tpk: Insert: "to the Town of Washington" after the permit number.

Page 8: line 16: Change: "Gorman" to "Gruson."

Page 9: line 2: Change: "installed" to "install."

Page 9: Under subcommittee report: line 3: Delete: "before the next Commission meeting."

**MOTION:**

To accept the 8/11/10 Regular Meeting minutes as amended.

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

The 8/25/10 Holiman site inspection minutes were accepted as corrected.

Page 1: The spelling of "Cheney" was corrected.

**MOTION:**

To accept the 8/25/10 Holiman site inspection minutes as amended.

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

**Pending Applications**

Horan/54 East Street and 49 Tompkins Hill Road/#IW-10-24/Lot Line Revision and Construct Single Family Dwelling: Mr. McMorrow, engineer, explained the changes to the site development plan since the last meeting. The map, "Site Plan," by Berkshire Engineering, revised to 8/31/10 was reviewed.

1) Rain garden: Previously there had been a small plunge pool at the end of the driveway, but the Commission had asked for drainage calculations to check that it was properly sized. Mr. McMorrow submitted drainage calculations, said the pool had been sized per the state's 2004 Stormwater Manual, and reviewed the detail sheet for the bioretention basin. He stated 6 inches would pond in the basin before it would overflow and said it was oversized by 50%.

2) A 20 scale map was submitted as requested.

3) Drainage swale: In the drainage report, Mr. McMorrow delineated the third of an acre drainage area that would flow to the driveway swale. Based on the calculations for a 25 year storm, he stated the proposed grass lined swale was adequate. He noted, too, that more drainage would flow through the rain garden than would flow along the driveway.

4) A 25 ft. wide conservation easement was proposed along the edge of the wetlands and the limit of disturbance line and silt fence were moved.

Atty. Sconyers submitted a letter dated 9/1/10, which included the conservation easement language

proposed. Mrs. Hill asked why a conservation easement wasn't proposed for both sides of the wetlands. Mr. McMorrow answered that the chances of ever using the septic reserve area on the other side of the wetlands were slim. Mrs. Hill asked if there would be no clear cutting provisions for the entire property as had been discussed at the last meeting. Atty. Sconyers did not think this was necessary for the entire property. Mr. LaMuniere asked if the 9/1/10 letter addressed clearcutting on the steep hillsides, noting it was important that the tree cover remain on the slopes due to the potential drainage problem. Atty. Sconyers thought it unreasonable to restrict the cutting of trees in perpetuity, especially since the rain garden had been over designed by 50%. Mr. Bedini noted the steep slopes were not included in the area to be disturbed. It was the consensus this would be a 5 year permit.

**MOTION:**

To approve Application #IW-10-24 submitted by the Horans for a lot line revision and single family dwelling at 54 East Street and 49 Tompkins Hill Road per the 1"=20' and 1"=40' scale site plans by Berkshire Engineering, revised to 8/31/10 and the 9/1/10 letter to the Commission from Ackerly - Brown, LLP.

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

Holiman/125 West Shore Road/#IW-10-30/Shore Line Planting:

Mr. Bedini stated a site inspection had been conducted and a good narration of the work proposed had been submitted. Mr. Ajello noted that a "slope blanket" of jute netting would be used to stabilize the disturbed slope above the lake.

**MOTION:**

To approve Application #IW-10-30 submitted by Ms. Holiman for shoreline planting at 125 West Shore Road per the July 2010 sketch plan submitted.

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

Town of Washington/112 Walker Brook Road South/#IW-10-31/Drainage Repairs:

Mr. Bedini noted there had been no questions raised at the last meeting. Mr. Szymanski, engineer, stated there had been no revisions to the plans.

**MOTION:**

To approve Application #IW-10-31 submitted by the Town of Washington for drainage improvements at 112 Walker Brook Road South per the site plan by Arthur H. Howland and Assoc. dated July 12, 2010.

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

**New Applications**

DuBois-Gager/16 Horse Heaven Road/#IW-10-32/Remove Trees:

Mr. DuBois noted that Mr. Ajello had asked him to submit an application, but he said the trees had already been cut and no additional work was intended. He noted two trees had fallen on the wires and that when the contractor had come to remove them, he had also removed some other dead and damaged trees without thinking to check for wetlands. Mr. Ajello said the issue was the invasiveness of the operation, that the equipment had been close to a watercourse, and that 2,000 sq. ft. had been cut. Mr. DuBois said the stream was dry due to the dry weather and that 2,000 sq. ft. had not been cut. Photos of the site and a map of the property were reviewed. Mrs. D. Hill noted all of the work done had been in wetlands. A site inspection was scheduled for Tuesday, September 7, 2010 at 4:30 p.m.

Harris/258 New Milford Turnpike/#IW-10-33/Repair Septic System:

Mr. Harris said the septic system had been rebuilt in 2002, but had not held up. He noted half of the needed repairs had already been completed. He noted, too, that the current failure was due to the fact

that there had not been a dedicated grease trap installed. The plan, "Repair Site Plan for Sewage Disposal System," by Mr. Fowler, dated 8/26/10, was reviewed. He stressed that the repairs were needed as soon as possible and that this time an additional 4" pipe would be installed to the grease trap, which would be pumped once a month. Mr. Ajello said he had treated the application as an emergency repair, but thought Mr. Harris had overpaid the fee. Mr. Ajello will return any overpayment. It was noted the repair work was being done by hand, erosion controls were in place, and the plans had been approved by the Health Dept. It was the consensus to let the work proceed due to public health concerns and to formally approve the application at the next meeting.

### **Other Business**

#### Wykeham Rise, LLC./101 Wykeham Road/Request to Amend Permit #IW-08-31:

Mr. Szymanski, engineer, explained the owners proposed to modify the original inn approval because they now proposed to build a school. He noted revisions to the approved site plan, which included:

- 1) removal of the building near the existing tennis court,
- 2) slight increases to the footprints of the approved cabins, but modifications in the proposed dorms overall, which would result in a net reduction of approx. 100 sq. ft. in the upland area,
- 3) the addition of a 200 to 300 foot access to the northeast (but the drainage system would not require corresponding increases because it had already been sized to include this impervious surface),
- 4) an 8% decrease in the size of the main building, and
- 5) reconfigurations in the field 400 feet from the wetlands.

Mrs. Hill asked that the proposed revisions be detailed in writing for the file. Mr. LaMuniere agreed that a precise description of the proposed changes was needed. He said the Commission would have to be certain that changes in the overall surfaces of the buildings would not impact the drainage.

Mr. Bedini asked the following questions:

- 1) Was this a request for a modification or was there enough proposed so that it should be a new application?
- 2) Should a public hearing be scheduled?
- 3) Should the modifications be referred to a consultant to check for significant changes?

Mr. Szymanski said the applicant wanted to accelerate the review process and so if this was going to be referred to a consultant, he asked that it be referred to the same consultant the Commission used for the original review. Mr. Bedini said that once the specific description of the proposed changes is received, the request will be referred to Land Tech who will be asked if there are any significant changes proposed and whether there are any wetlands issues. Mr. Szymanski said he would prepare a site plan that would indicate both what had been previously approved and what was now being applied for. Mr. Bedini said a site inspection would be scheduled after the Commission has received input from its consultant.

#### Myfield, LLC./7 Mygatt Road/Request to Renew Permit #IW-05-54:

The Commission had received a letter dated 8/13/2010 from Mr. Fowlkes requesting to renew the permit, which would expire on 11/16/2010. In this letter he stated Myfield, LLC. intends to proceed with the project and so he requested a two year extension. There were no changes to the approved plan.

#### **MOTION:**

To approve the request from Myfield, LLC. for a 2 year extension of Permit #IW-05-54 for affordable housing at 7 Mygatt Road.

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

## **Enforcement**

### 141 West Shore Road, LLC./141 West Shore Road/Violation of Permit #IW-10-22:

Ms. Armstrong and Mr. Clark, engineer, were present. Mr. Clark stated that Mr. Ajello had stopped work when three trees had been cut on the shoreline rather than the two permitted. He noted the arborist had submitted a letter dated 8/31/10 to say the cutting of the third tree was an error on his part, but that he thought it was necessary to remove this additional tree because it would have compromised the stonewall. The approved plan, "Shore Line Detail," by Oakwood Environmental Associates, revised to 7/15/10 was reviewed and photos of the site circulated. Mr. Bedini asked if a replacement would be planted. Ms. Armstrong offered to plant a birch at the south end of the property. Mr. Ajello urged that a maple be planted in the open section of property, half way between the road and the beach. A lengthy discussion followed regarding the size, type, and location of the replacement tree.

### **MOTION:**

Regarding the violation of Permit #IW-10-22; to require 141 West Shore Road, LLC./141 West Shore Road to plant a native birch tree in the open area near the neighboring shed, half way between the shoreline wall and the road; the birch to be a minimum of 12 feet tall with a 3 inch caliper. By Mr. Bohan, seconded by Mr. LaMuniere, and passed 5-0.

### Denscot Pool and Spa/269 New Milford Turnpike/Unauthorized Expansion of Storage and Parking:

Mr. Meeker stated he had put up a fence to contain the construction material that had accumulated on site, but had not gotten a permit. Mr. Ajello circulated photos of the site and Mr. Meeker presented a photo taken after he had cleaned it up. He noted he had seeded and hayed the disturbed areas and said he hoped to get a permit for outside storage. Mr. Bedini asked if he intended to store chemicals outside. Mr. Meeker said he did not. Mr. Ajello noted a permit had previously been granted for a parking area 40 feet from the streambank, but said this was now too small for the business. He asked Mr. Meeker for a plan for parking and outside storage that would satisfy Zoning, Health, and Inland Wetlands. He noted that the vegetated buffer required in the original permit had never been planted. Mr. LaMuniere asked Mr. Meeker to indicate how the area now used for parking and storage differs from what the Commission approved. Mr. Bedini asked if the expanded parking and storage had caused any permanent damage. Mr. Ajello did not think it had. Mr. Meeker said he would submit a proposal at the October 13 meeting. Mr. LaMuniere noted specific details would be needed. Mr. Bedini asked that the plan include the plantings required in the original permit. Mrs. Hill asked that proposed activities stay as far from the river as possible. A site inspection will be scheduled after the proposal is submitted.

### Matteo/176 West Shore Road/Shoreline Repairs:

Mr. Ajello circulated a photo of the shoreline taken in June 2010, which showed one area of collapsed stone and noted Ms. Matteo had argued that no permit was required to repair existing landscaping. When told she would have to apply for the repair work, she had asked for an Agent approval, but Mr. Ajello advised her that he could not sign off on work in the water. Mr. Bedini read the proposal from the incomplete application. She proposed to make repairs by hand to the stone patio and the stonewall that holds the patio. Mr. Bohan noted that only a sketch had been submitted, but an engineered drawing was required. Mr. Bedini agreed the sketch plan was not sufficient. Mrs. Hill read Sections 4.01.c and 4.04 regarding as of right activities and explained Ms. Matteo must apply with sufficient information so that the Commission can determine whether the proposed activity is, indeed, as of right. Mr. Bedini asked for an engineered drawing with all details and dimensions to show what exists vs. what is proposed. It was also noted that if Ms. Matteo continues to maintain that she does not need a permit, the Commission could refer the matter to its attorney to review at her expense.

### Popkin/30 Tinker Hill Road/Unauthorized Shoreline Work:

Mr. Ajello compared photos of the site taken in June and in August 2010. It was evident that a wall had been constructed to build out the shoreline. Mr. Ajello had sent a notice of violation on August 24,

2010, but had not yet had a response from the property owners. It was noted that the work was unauthorized and that deposition of soil is a “regulated activity” per the Regulations. Mr. Wadelton said the work done was a clear violation. The commissioners will drive by the property on their own prior to the next meeting. Mr. Bedini asked Mr. Ajello why the three enforcement matters discussed tonight, 141 West Shore Road, LLC., Denscott Pool and Spa, and DuBois-Gager, had not been handled in the same manner. A lengthy discussion followed. It was thought the Commission and staff should strive to be fair and consistent in dealing with both applications and enforcement matters.

### **Enforcement Report**

#### Andersson/Gunn Hill Road:

Mr. Andersson made his final payment per the enforcement settlement and the Treasurer has been asked to pay Land Tech’s final bill.

#### Angell/47 West Shore Road:

The stairs were redesigned and drainage has not been a problem.

#### Bowman/44 Plumb Hill Road:

This project is nearing completion.

#### Brose/213 Roxbury Road:

The unauthorized patio and stairs have been removed. Mrs. J. Hill said she had spoken with Ms. Brose who said she plans to plant in the fall.

#### Erhout/289 West Shore Road:

The drainage improvements have been completed.

#### Gruson/62 Frisbie Road:

The dredged material is being trucked off site.

#### King/153 Lower Church Hill Road:

The work is in progress and currently there are large spoils piles on site.

#### Klein/236 Tinker Hill Road:

The Zoning Commission approved a Special Permit for the gate. Mr. Ajello read the planting list for the bank above the shoreline.

#### Peckerman/162 Sabbaday Lane:

The excavated material will be removed from the property once it is dewatered.

#### Schein/245 West Shore Road:

The required lakeshore planting has not been completed and Mrs. Schein has not responded to the latest letter from Mr. Ajello.

#### Spring Hill Farm/Whittlesey Road:

Mr. Ajello described repairs he had approved to the roof and foundation of the springhouse.

#### Steep Rock Assn./Sabbaday Lane:

The selective clearing is underway and seed trees are being preserved.

#### Washington Primary School/11 School Street:

The drainage repairs have progressed with no risk of erosion. Mr. Bedini said the pipe outlets would be covered with chain link and a section of the riverbank would be rip rapped for fire department access.

#### Weaver/176 East Shore Road:

A citation was mailed to Mr. Weaver on 7/28/10, but he has not yet responded.

Keating/68 West Shore Road:

Mrs. Hill said she did not understand why Mrs. Keating had been asked to attend the last meeting and noted that what she had built was what had been indicated on her approved plan. Mr. Wadelton agreed and said the Commission had received a detailed drawing with dimensions. Mr. Ajello argued that Mrs. Keating had ignored the detailed drawing and had not shown it to her contractor. Mr. Bedini said that misunderstandings like this one were the reason the Commission would now require engineered plans for all shoreline work.

**Administrative Business**

Motion Template:

Mrs. Hill said she had drafted a template that the commissioners could use to ensure that applications were acted on in a consistent manner. She will email the draft document to the commissioners for their input before the next meeting.

Violation Cards:

Mr. Bohan suggested that it would be a good idea to post red violation cards on properties where violations have occurred. He thought this might deter violators and noted this is done in Danbury.

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

After a brief discussion, Mr. Bohan recommended another condition of approval; that whoever will do the planting must meet with the WEO on site prior to the start of work.

MOTION: Regarding Wang/110 Blackville Road/Unauthorized tree removal and driveway; to approve the 9/1/10 drawing presented by Mrs. Wang subject to the following conditions: 1. Norway maples shall be changed to an assortment of red maples and sugar maples, 2. the trees shall be planted in a random pattern, 3. the trees shall be mulched with 3 inches of mulch, 4. the trees shall be watered until they are established, 5. the trees shall be protected from deer to ensure their survival through the winter, and 6. the person who will plant the trees is required to meet on site with the WEO before the work is started.

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

**Election of Officers:**

MOTION:

To cast one vote for Mr. Bedini for Chairman and one vote for Mr. Wadelton for Vice Chairman for 2010 – 2011.

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

Shoreline Policies and Procedures:

The subcommittee consisting of Mr. LaMuniere, Mr. Martino, and Mr. Wadelton will meet on Thursday, September 9, 2010 at 6:00 p.m. in the Land Use Meeting Room.

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

Mr. Bedini adjourned the Meeting at 10:03 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

By

Janet M. Hill

Land Use Administrator

