

# **December 10, 2008**

## **Public Hearing – Regular Meeting**

6:00 p.m. Selectmen's Office and Land Use Meeting Room

**MEMBERS PRESENT:** Mr. Bedini, Mrs. D. Hill, Mr. Picton, Mr. Thomson

**MEMBER ABSENT:** Mr. LaMuniere

**ALTERNATES PRESENT:** Mr. Bohan, Mr. Wadelton

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

**ALSO PRESENT:** At Meeting only: Atty. Strub, Mrs. Cheney, Mr. Szymanski, Atty. Fisher, Mr. Talbot, Mr. Neff

## **PUBLIC HEARING**

Revision of the Regulations/Con't.

Mr. Bedini reconvened the Public Hearing at 7:06 p.m. and seated Members Bedini, Hill, and Thomson and Alternate Wadelton. There was no one from the public present.

It was noted a lengthy review dated 12/10/08 had been received from Atty. Zizka. Whether to close the hearing now and to work on incorporating Atty. Zizka's recommendations later was discussed briefly. It was decided to continue the hearing so that if any of Atty. Zizka's comments were significant, the public would have the opportunity to comment on them.

Mr. Picton arrived at this point.

Each of Atty. Zizka's recommendations was discussed until it was time to begin the Regular Meeting at 7:00 p.m. The commissioners all agreed to each of the following revisions unless otherwise noted.

1.02: Change "on" to "affecting."

Section 2: Add a definition of "Commission" to match that of "Agency."

2.06: Revised definition for "bog."

2.07: 1) Retain reference to 2" and larger trees. 2) After some debate it was decided to use "50%" rather than "majority." 3) The last phrase will be deleted so that the sentence ends with "4.5 feet." That phrase to be moved to 2.08.

2.08: 1) Will reference "vegetation" and delete specific examples. 2) Add phrase from 2.07, "...in a manner that significantly alters the natural or indigenous character of the regulated area."

2.12: Although Atty. Zizka recommended to delete the entire section, it was agreed to delete only "and/or upland review areas."

2.17: Change: "wetlands" to "watercourses."

2.18: Delete: "partial or complete."

2.20: Delete: "soil."

2.21: Atty. Zizka recommended this section be deleted. The Commissioners wanted to retain it and decided to ask him specifically about it.

2.22: Substitute: "a watercourse" for "one" in the first line.

2.23: Reword as follows: "...means plants that have the ability to become established and abundant in areas to which they are not native and which can thereby damage existing ecosystems or displace native species."

2.25: Will change "permit" to "license" throughout, but only in those sections where appropriate.

2.26: Change: "watercourses" to "land areas." 2.28: In the last line, change: "an applicant's" to "a licensee's."

2.38: There was no consensus. Because the DEP model regs refer only to wetlands and watercourses,

Atty. Zizka will be consulted about whether to include “upland review areas.”

2.42: Change the beginning of the definition to: “...means a perceptible change in physical, biological, or chemical characteristics of a wetland or watercourse that may reduce or alter any of the desirable functions of the wetland or watercourse. Activities that may cause a significant impact include, but are not limited to....”

2.45: Change: “Watercourses” to “land areas.” 2.48: Add as a last sentence: “Furthermore, the Agency may rule that activities on any land area where conditions such as steep slopes (12% grade or more) may cause a physical impact on a wetland or watercourse are subject to review.” Raising the grade to 15% was considered, but a decision to do so was not agreed upon.

2.49: Retain this definition. Change: “seasonal or permanent watercourse” to “seasonal, generally shallow body or water.”

3.01: Change: the first line and a half through the word, “Connecticut” to “The Inventory Map.” Insert for the second sentence: “However, areas designated as wetlands or watercourses on the Inventory Map shall be presumed to be wetlands and watercourses, respectively, unless the Agency makes a contrary finding based on the evidence it receives.”

3.03: Change: “map” to “Inventory Map.”

The Public Hearing was continued to 7:00 p.m. on Wednesday, January 14, 2009 in the Land Use Meeting Room. The subcommittee will meet before then to consider the rest of Atty. Zizka’s recommendations.

The Public Hearing was recorded on tape. The tape is on file in the Land Use Office, Bryan Memorial Town Hall, Washington Depot, Ct.

## **REGULAR MEETING**

Mr. Bedini called the Meeting to order at 7:06 p.m. and seated Members Bedini, Hill, and Thomson and Alternates Bohan for Mr. LaMuniere and Wadelton for Mr. Picton.

MOTION: To add subsequent business not already posted on the agenda: Other Business: Approval of 2009 Calendar. By Mr. Bedini, seconded by Mrs. Hill, and passed 5-0.

### **Consideration of the Minutes**

The 11/25/08 minutes were accepted as corrected.

Page 1: 1) Add to Also Present: Mr. Baker, Mr. Lassard, Mr. Diller, and Mr. Klein. 2) First line, last paragraph: Insert: “at the start of the Public Hearing” before “...and he had....”

Page 7: 4th line from the end of the Buell paragraph: 1) Insert: “to the application” after “revisions.” 2) Change: “made in the office” to “required by the Enforcement Officer.”

Page 10: 4th line from end of 1st paragraph: Insert: “it is better when” after “noting.”

Page 11: Under Sen: All references to the “pool” should be to the “pool patio.”

Page 12: In the Reinhardt motion: Insert: “refundable” before “portion.”

MOTION: To accept the 11/25/08 Regular Meeting minutes as corrected. By Mrs. Hill, seconded by Mr. Bedini, and passed 5-0.

MOTION: To accept the 11/25/08 Washington Partners, LLC. site inspection as submitted. By Mr. Bedini, seconded by Mrs. Hill, and passed 5-0.

The Reinhardt site inspection minutes were accepted as corrected. The departure time should be 4:45 p.m. not 3:45.

MOTION: To accept the 11/25/08 Reinhardt-Cremona site inspection minutes as corrected. By Mr.

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

### Pending Applications

Conlon/6 Valley Road/#IW-08-53/Reconstruct Dwelling, Alteration of Garage, Addition to Barn, Install Septic System, Etc.:

Mr. Szymanski, engineer, submitted the roof runoff calculations and noted the roof infiltration systems had been sized for 100 year storms and their capacities were more than was needed. The map, "Proposed B-100a Sanitary Disposal System Plan," by Arthur H. Howland and Assoc., revised to 12/10/08 was reviewed. Mr. Szymanski pointed out the locations of the proposed buffers and circulated photos of the existing conditions. He proposed to abandon the existing well per the State Health Code, remove the existing shed, and then maintain this area as natural buffer. The distance from the well to the river would increase by 15 ft. and from the house to the river by 5 ft. Also, he noted he had moved the location of the barn slightly and a buffer would be added on its north side. He said that the sheet flow conditions from the driveway would be improved because the southern section of the drive would be removed and a buffer added on the north side. He briefly discussed the reasons there were no feasible and prudent alternatives. He proposed that the natural buffer areas to the north of the structures would not be mowed at all and the buffer to the east of the proposed structure would be weed whacked once per year. The development was kept to .4 acres, the buffers increased to .5 acre, and the amount of impervious surfaces decreased. Mr. Szymanski also noted there would be no concentrated runoff flowing towards the river. Mrs. D. Hill said she thought the porch on the barn would be removed. Mr. Szymanski said although this had been discussed, it had been decided to keep it because it was 29 ft. from the river, would not adversely impact the watercourse, and the buffer had been added.

Construction was briefly discussed. Mr. Szymanski agreed to add a row of staked hay bales on the downhill side of the construction.

MOTION: To approve Application #IW-08-53 submitted by Mr. and Mrs. Conlon to reconstruct the dwelling, add to the barn, alter the garage, and install a septic system at 6 Valley Road subject to the following conditions: 1. the buffer area north of the proposed barn shall never be disturbed, 2. the buffer area to the east shall be weed whacked only once a year, and 3. a row of silt fence shall be added next to the hay bales shown. By Mr. Bedini, seconded by Mrs. Hill, and passed 5-0.

Washington Partners, LLC./108 New Milford Turnpike/#IW-08-57/9 Lot Affordable Subdivision: Atty. Strub said that his client had reviewed the proposal from Milone and MacBroom and said the \$5000 maximum charge was reasonable. It was noted the Commission requires the bond posted to be 1.5 times the estimate; \$7500 for this review. Mr. Bedini said that Milone and MacBroom would be asked to start its review as soon as possible and the results would be given to the applicant as soon as they were received.

### New Applications

223 Litchfield Turnpike, LLC./223 Litchfield Turnpike/#IW-08-61/ Septic Repair, Site Improvements: Mr. Neff, engineer, and Mr. Talbot, architect, represented the applicant. The map, "Septic System Repair Plan," by Mr. Neff, dated 11/25/08 was reviewed. The "Soil Erosion and Sediment Control Plan," by Mr. Neff dated 12/1/08, including the sequence of construction, was also submitted. Mr. Neff proposed a new septic tank and leaching fields and said pump chambers would be installed to pump effluent to the southwest corner of the site where there is a high dry spot. He noted there were a lot of wetlands throughout the property. The following activities were also proposed: 1) remove old fire escape and entry deck, 2) install new front entry way, 3) resurface parking area, and 4) relocate shed. Mr. Neff said the building had previously been used as a restaurant with an apartment above. The plans are to use it again as a restaurant, but to remove the apartment and use that area as office space and storage. Mr. Neff explained that the areas to be disturbed were fairly level. Mr. Bedini asked where the

asphalt parking area runoff would flow. Mr. Neff responded there would be sheet flow around the edges, just as there had been in the past. He did not think there would be much difference between the amount of runoff from the existing gravel and proposed paved areas. Mr. Talbot noted asphalt was preferred so that the parking spaces could be delineated. A site inspection was scheduled for Tuesday, December 16, 2008 at 3:00 p.m. Mr. Neff noted that the septic installation would require that some trees be cut. Mrs. D. Hill said she was concerned about contaminants and asked if drainage facilities could be installed. Mr. Neff said the configuration of the parking area would not change and it would be difficult to install a catch basin because the land did not slope. Mr. Ajello agreed there was no vertical room in which to install a drainage system and suggested instead that high grass be planted between the parking lot and the wetlands. Mr. Neff added that an infiltration system could not be installed because the ground water level was too high and the ground saturated. Mr. Bohan asked why the proposed 15" pipe was needed. Mr. Neff noted there was a ditch on both sides of the entrance and this would allow the water to flow through east to west. Mr. Talbot said there used to be a pond on the property, but Mr. Neff wasn't sure that digging a pond to handle the runoff would be a good idea because it would be stagnant. It was noted that the soil scientist's sketch map had not been submitted. Mr. Bedini asked Mr. Ajello to review the erosion control plan.

### **Other Business**

#### Preliminary Discussion/First Washington Capital/89 Lower Church Hill Road:

Atty. Fisher noted that the cliff on this property overlooks Steep Rock. He presented a map of a portion of the property, by architects McGiver-Morgan, dated 12/2/08, on which he noted the location of the proposed house and guest house. He said they would be modestly sized, set back from the cliff, and blend in with the landscape. Atty. Fisher reported that Mr. Temple, soil scientist, had determined that the closest wetlands were 300 feet away, but noted that when Mr. Matthew's previous proposal had been reviewed, seeps had been found on the hillside. He said he did not think these could be considered intermittent streams by definition, said that a consulting geologist had advised him that the proposed work would not impact the seeps or have any impact on the water system below, noted the stream at the bottom of the slope was at least 600 feet, measured horizontally, from the area of excavation, and asked the Commission if there would be any wetlands issues. Mr. Bedini asked how far the house would be from the cliff. Mr. Ajello said it would be 100 to 150 feet away. Atty. Fisher assumed there would be blasting done to keep the house low so it would be less visible. Mr. Bedini suggested that the right kind of consultant would be needed to look at the seeps and slopes and make the determination whether the proposed work would be under the Commission's jurisdiction. He added that if it was determined to be under Inland Wetlands' jurisdiction, a public hearing would be held due to the public interest in this matter. Atty. Fisher questioned the Commission's jurisdiction, saying that seeps are not watercourses and the proposed work did not require the Commission's review. Mr. Bedini said it was not known whether the blasting would affect the seeps and if it would, the project would most likely be under the Commission's jurisdiction. He also noted that the Conservation Commission was concerned about the project so it was proper for the Inland Wetlands Commission to investigate. Mrs. D. Hill and Mr. Thomson said they considered seeps to be regulated. Mr. Bedini asked Atty. Fisher for the following information that would be forwarded to a consultant: 1) extent of the blasting in all three areas where proposed, 2) the distance between the proposed structures and the cliff, 3) what changes to the existing drainage patterns were anticipated, and 4) amount of material to be excavated. Atty. Fisher stated the proposed work would not change the drainage patterns. Mr. Picton asked him for documentation. Mr. Ajello will contact Atty. Zizka to see if there are geologists he would recommend to the Commission for this review. Mr. Bedini instructed staff that all communications, including emails and conversations, must be documented for the file and that this should be the standard practice for all files.

### **Enforcement**

**Andersson/35-45 Gunn Hill Road:**

Atty. Fisher reported that Mr. Andersson was comfortable with the proposed settlement agreement, and he had sent it to the intervener's attorney four weeks ago, but there still had been no response. He asked the Commission to give the intervener a deadline by which she must decide whether she will support it. Both Mr. Andersson and the Commission were eager to settle this matter. Atty. Fisher suggested that a pretrial conference could be requested if the intervener would not agree to the settlement. Mr. Picton said it should be understood that the Commission still had to review the document and map to make sure it, too, was satisfied. Atty. Fisher said that Mr. Alex had not yet drawn the map that would accompany the agreement; that he wanted to wait until all parties had agreed before doing so. It was the consensus that Atty. Fisher would contact Atty. Zizka to tell him the Commission would like a response from Ms. Martin within two weeks and if it is not received, would like a pretrial conference.

**Kessler/Mountian Road:**

Mr. Ajello said that Mr. Kessler has complained about the cost of the required long term monitoring.

**Liljequist/Tinker Hill Road:**

The citation has been paid.

**Lodsin/Litchfield Turnpike:**

There has been no progress on this matter.

**McCullers/Plumb Hill Road:**

The entire amount of the bond will be returned.

**Rosen/Nettleton Hollow Road:**

Forensic work will be scheduled by the Army Corps of Engineers.

**Rubler/Wykeham Road:**

Mr. Ajello will write to the Rublers to inform them that if they plan to keep the temporary pool access drive, they will have to apply for it. This is under the Commission's jurisdiction because there are wetlands within 100 feet on the adjoining property. Mr. Picton did not think the bond should be released until this matter is resolved.

**Thorne/West Shore Road:**

Mr. Ajello said he would inspect this site once a week while work is in progress.

**Moore/Litchfield Turnpike:**

Mr. Ajello will inspect the restoration area in the spring and it won't be determined until then whether the remaining bond will be released.

**Wright/Scofield Hill Road:**

Mr. Ajello noted the vegetation is filling in and he probably could sign off, although he had not made any recent inspections.

**DiBenedetto/Calhoun Street:**

Mr. Ajello said the vegetation had been planted and there had been no recent mowing or pruning. Hopefully, there will be a new round of planting in the spring. A partial bond is still being held.

**Brown/West Shore Road:**

This matter is in court. Mr. Picton reported that the judge had told the owner to try to resolve the matter with the Commission. Mr. Ajello said he would email Atty. Olson.

**Slaymaker/Sunset Lane:**

There is a bond in place to cover the restoration of the areas disturbed by unauthorized work. This item will remain on the agenda.

Howard/West Shore Road:

This matter is in court. Ross/Litchfield Turnpike:

Mr. Ajello said he had inspected the site and that Mr. Ross had aggressively tried to remove the Japanese knotweed.

### **Administrative Business**

Revision of the Regulations:

This work is still progressing.

### **Consultant's Report:**

This report will be discussed at a meeting with Mr. Connor and the Board of Selectmen on 12/11/08.

All commissioners were urged to attend.

It was noted this was Mr. Picton's last meeting. He briefly addressed the Commission.

There was no reason to go into Executive Session.

MOTION: To adjourn the meeting. By Mrs. D. Hill.

Mr. Bedini adjourned the meeting at 9:06 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill, Land Use Coordinator

TOWN of WASHINGTON

Bryan Memorial Town Hall

Post Office Box 383

Washington Depot, CT 06794

INLAND WETLANDS COMMISSION

SITE INSPECTION REPORT

I. APPLICATION #: INSPECTION DATE: 25 November 2008

TIME: 4:00pm

II. NAME: Reinhardt-Cremona

III. PROPERTY ADDRESS: Perkins Road

IV. REASON FOR APPLICATION: Execution of Restoration Plan

V. MEMBERS PRESENT: Roger Bohan, Steve Wadelton, Tony Bedini

STAFF PRESENT: None

OTHERS PRESENT: None

VI. REFERENCES: None

VII. OBSERVATIONS: The Commissioners arrived on site at 4:00pm and drove up and parked on Perkins Road. Standing on Perkins Road we observed the rather dense revegetation that has taken place on the Reinhardt and Cremona properties. It appeared to us from our point of observation that the restoration plan is working and the site is well stabilized.

The commissioners left the site at approximately 3:45pm.

Respectfully submitted,

Tony Bedini

TOWN of WASHINGTON  
Bryan Memorial Town Hall  
Post Office Box 383  
Washington Depot, CT 06794

INLAND WETLANDS COMMISSION  
SITE INSPECTION REPORT

I. APPLICATION #: IW-08-57 INSPECTION DATE: 25 November 2008  
TIME: 3:00pm

II. NAME: Washington Partners, LLC

III. PROPERTY ADDRESS: 108 New Milford Turnpike (Route 202)

IV. REASON FOR APPLICATION: 9 Lot Affordable Subdivision

V. MEMBERS PRESENT: Roger Bohan, Steve Wadelton, Tony Bedini

STAFF PRESENT: None

OTHERS PRESENT: Mr. David Lord, Environmental Engineer; Mr. Ron George, CCA; Mr. Chris Charles, Washington resident.

VI. REFERENCES: Pond View Estates at Washington, An Affordable Housing Project (9 pages)

VII. OBSERVATIONS: The Commissioners arrived on site at 3:00pm and were met by Mr. Lord and Mr. George and joined by Mr. Chris Charles. We parked just off Route 202 in a grass roadway that was quite wet. Following the proposed roadway, we walked the entire site and viewed each of the nine house sites and their proximity to the roadway. We walked to the edge of the wetlands and observed the conditions there. Although all of the proposed house sites lie outside the 100 foot URA, because of the steep slopes in several locations, and portions of the proposed roadway within the 100 foot URA, the plan will require a review by our consultant.

The commissioners left the site at approximately 3:45pm.

Respectfully submitted,  
Tony Bedini