

May 22, 2013

Show Cause Hearing – Regular Meeting

6:45 p.m. Upper Level Meeting Room

MEMBERS PRESENT: Mr. Bedini, Mr. LaMuniere, Mr. Papsin, Mr. Wadelton

MEMBER ABSENT: Ms. Cheney

ALTERNATE PRESENT: Mr. Davis

ALTERNATE ABSENT: Mr. Martino

STAFF PRESENT: Mr. Ajello, Mrs. Hill

ALSO PRESENT: Mr. Newman, Mr. Gambino, Mr. Tittman, Mr. Moran, Mr. Hayden, Mr. Dieterle, Press

SHOW CAUSE HEARING

Stiles/15-16 Tinker Hill Road/Violation: Unauthorized Clearing and Soil Disturbance

Mr. Bedini called the show cause hearing to order at 6:47 p.m. and seated Members Bedini, LaMuniere, Papsin, and Wadelton. It was noted the purpose of the hearing was to give the property owner the opportunity to show why the enforcement order should not remain in effect. No one was present to argue against the order.

It was also noted that Mr. Stiles had already posted the consultant's bond and that Mr. Allan had inspected the property. It was not known when his report would be completed.

Mr. Bedini stated the enforcement order would remain in effect.

MOTION:

To close the show cause hearing to consider whether the enforcement order issued to Stiles, 15-16 Tinker Hill Road for unauthorized clearing and soil disturbance should remain in effect.

By Mr. Papsin, seconded by Mr. Wadelton, and passed 4-0.

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

REGULAR MEETING

Mr. Bedini called the meeting to order at 7:00 p.m. and seated Members Bedini, LaMuniere, Papsin, and Wadelton and Alternate Davis for Ms. Cheney.

MOTION:

To add the following subsequent business to the agenda:

VIII. Administrative Business:

A. Regulations on Website.

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

Consideration of the Minutes

The 5/8/13 Regular Meeting minutes were accepted as corrected.

Page 6, line 3: After "...and for" insert: "using the tennis court as" a skating rink.

Page 8 under Stiles, at the end of #3, change "habit" to "habitat."

Page 9 under Lovelace, 7 lines from the bottom: change: "area" to "wetlands boundary."

MOTION:

To accept the 5/8/13 Regular Meeting minutes as corrected.

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

Pending Applications

Wilson/368 Nettleton Hollow Road/#IW-13-10/Improve Driveway, Install Stone Work, and Conduits:

Mr. Newman, contractor, reviewed his plan, "Driveway Enhancement Plan," dated 5/22/13 and said there had been no changes since the last meeting. Mr. Ajello asked what would be done along the roadside in case of bad weather. Mr. Newman said there would not be a large disturbance; one small section would be worked on at a time. Mr. LaMuniere noted that all of the information requested at the last meeting had been submitted.

MOTION:

To approve Application #IW-13-10 submitted by Mr. Wilson, 368 Nettleton Hollow Road to improve the driveway and install stone work and conduits per the plan, "Driveway Enhancement Plan," by Mr. Newman, dated 5/22/13; the permit shall be valid for two years and is subject to the following conditions:

1. that the Land Use Office be notified at least 48 hours prior to the commencement of work so the WEO can inspect and approve the erosion control measures,
2. that the property owner give the contractor copies of both the motion of approval and approved plans prior to the commencement of work, and
3. any change to the plans as approved must be submitted immediately to the Commission for reapproval.

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

Nauiakas/170 Church Hill Road/#IW-13-11/Resurface Driveway, Construct Stonewall, Install Underground Utilities, Remove Propane Tank:

All the required information had been submitted and it was noted that at the last meeting Mr. LaMuniere had stated the proposed activities would have no impact on the wetlands.

MOTION:

To approve Application #IW-13-11 submitted by Ms. Nauiakas, 170 Church Hill Road to resurface the driveway, construct a stonewall, install underground utilities, and remove the propane tank per Mr. Neff's plan, "Proposed Site Improvements," dated 5/2/13; the permit shall be valid for two years and is subject to the following conditions:

1. that the Land Use Office be notified at least 48 hours prior to the commencement of work so the WEO can inspect and approve the erosion control measures,

2. that the property owner give the contractor copies of both the motion of approval and approved plans prior to the commencement of work, and
 3. any change to the plans as approved must be submitted immediately to the Commission for reapproval.
- By Mr. LaMuniere, seconded by Mr. Papsin, and passed 5-0.

New Applications

Steep Rock Assn./(EIS Realty, LLC.)/91 Bee Brook Road/#IW-13-12/ Replace Culvert:

Mr. Moran, engineer, represented Steep Rock. He proposed to remove and replace the existing DOT drainage pipe because the DOT required that this work be done in order for EIS Realty to get an encroachment permit to tie two catch basins into the DOT drainage system. The plan, "Drainage Improvement Plan," by Indigo Land Design, LLC., dated 5/7/13 was reviewed. The existing 150 ft. pipe will be replaced with a 12 inch flared end pipe, which will outlet into a rip rapped plunge pool 20 feet from the wetlands. Mr. Moran said the shorter pipe would have a positive impact on the wetlands. The only work proposed beyond the plunge pool is the installation of a biodegradable erosion control blanket and the seeding of the disturbed area with New England erosion control/restoration mix. Mr. Ajello asked if the pitch of the pipe would increase. Mr. Moran did not think it would, but said he would check. Mr. Laird asked if the proposed plunge pool was deep enough. Mr. Moran said the pool was not meant to serve as a detention basin, but just to slow the flow of the runoff, which would continue down a minor slope and to the wetlands and the river beyond. Mr. Ajello asked if the pipe had been sized to handle the runoff from the EIS Realty property. Mr. Moran said the pipe would be replaced in kind because the DOT did not require it to be enlarged. Mr. Ajello asked to see more details of how the area beyond the plunge pool would be treated because he was concerned that there might be an increase in runoff due to the small increase in the size of the parking lot and that this could result in the water cutting its own channel to the river. It was noted that the existing pipe is now below grade and the new pipe would exit at the same point below grade. Mr. Bedini thought a swale might be needed from the plunge pool outlet to the riverbank. Mr. Bedini asked that a note be added to the construction sequence that the Land Use Dept. would be notified at least 48 hours prior to the commencement of work so that the WEO can inspect and approve the erosion control measures.

Hayden/11 Loomarwick Road/#IW-13-13/Application to Correct a Violation. Control Erosion:

Mr. Hayden said he had reviewed the application with Mr. Ajello, who had said that installing sod to stabilize the bank was a good idea, but that the amount might have to be adjusted. The plans, "Restore and Enlarge Existing Stonewall," 5 sheets, by Mr. Hayden, dated 5/10/13 and revised to 5/22/13 were reviewed and the two sheets, "Original Plan Area," and "Proposed Plan Area," were compared. Mr. Ajello noted that by reducing the number of stairs to three, the disturbed area was consolidated. Mr. LaMuniere stated the Commission's main concern was the digging into the hill in order to build out a flat area. Mr. Ajello said that work had been unauthorized and that Mr. Hayden had paid a fine. Inland Wetlands vs. Zoning procedures were briefly discussed. Mr. Hayden said he was in no rush to get all of the work done except to stabilize the area and that he would come back for a modification of his plan if changes required by the Zoning Commission made it necessary for him to do so. Mr. LaMuniere thought the restoration of the built out area would cause even more disturbance. Mr. Ajello said the grass terrace could be considered an erosion control measure, which would be very effective and immediate if stabilized with sod. He noted that terraces were not addressed in Section 11A of the Regulations and so said the Commission would have to

determine the potential impact of this feature. Mr. Hayden explained that the stonewall work had begun due to a sink hole behind the original wall. Mr. Hayden revised his plans to indicate an enlarged area of sod. The commissioners had no additional concerns and informed Mr. Hayden it would not be necessary for him to attend the next meeting.

Wahlers-HORSE of CT/43 Wilbur Rd./#IW-13-14/Construct Indoor Arena:

Mr. Dieterle, contractor, presented the plans, "Site Plan Depicting Proposed Barn," by Stuart Somers Co., LLC., revised to 5/16/13, for the proposed indoor arena. Mr. Ajello stated the proposed building, stockpile, and infiltrators for the drainage system were all out of the review area, that the proposed location was suitable, and that the roof drains flowed to infiltrators on the NE side of the building. Mr. Bedini noted only the silt fence and access road were in the regulated area, but Mr. Ajello thought the limit of disturbance line was not realistic as shown. The access was discussed. While Mr. Dieterle noted it would cross hard, flat pasture and there would be a limited number of vehicles driving over it, the commissioners were concerned about the potential for rutting and erosion. Mr. Papsin suggested that filter fabric be put down, at least until the construction was completed and Mr. Davis agreed. Mr. Ajello suggested that silt fence be installed along the lower section of the access. Mr. Wadeldon asked if it was reasonably likely that runoff from possible ruts in the access would have an adverse impact on the wetlands. Mr. Ajello thought there would be a risk during construction only. Mr. LaMuniere suggested a note be added to the construction sequence that in case the access deteriorates, the necessary material will be brought in to stabilize it. Mr. Bedini recommended wood chips. Mr. Ajello noted this was a concern because siltation from the construction access happens often during construction projects.

Averill/250 Calhoun Street/#IW-13-15/Exemption Application/ Aquatic Herbicide Application:

Mr. Gambino, contractor, explained the pond to receive treatment was near the access drive to the farmstand and has a dry hydrant. He circulated photos taken three weeks ago of the dam, long embankment along Calhoun Street, and the culvert. He then submitted information sheets on herbicides to treat algae, pond weeds, duckweed, and watermeal and spoke about each chemical's effectiveness. Mr. Gambino noted the Averills were applying for an agricultural exemption and he reviewed the alternate options they had considered; 1) dredging the pond, which would be expensive and cause a lot of disturbance, 2) chemical treatment this year followed up with carp next year, and 3) aeration, which might not reduce the amount of nutrients. He said the application for the state permit was being processed, but had been held up in order to get more information on the chemical, phoslock. It was noted the water in the pond is used for irrigation and spraying. Mr. Gambino stated that these activities would be put on hold while the chemicals were active, but noted that diquat and clipper had short lives of three and five days. Mr. LaMuniere asked if there was a pond outlet. Mr. Gambino said the pond level drops this time of year so that would not be an issue if it was treated as soon as possible. Mr. Ajello asked if there would be concerns for firefighters should the dry hydrant have to be used while the chemicals were active. Mr. Gambino read the precautions listed on the labels and said he would flag the hydrant and the entrance upon application of the chemicals. It was the consensus that the application merited an agricultural exemption. Mr. Bedini stated for the record that this was a legitimate agricultural activity and that no permit was required.

Town of Washington/Complaint re: Removal of Knotweed Along Shepaug River:

It was noted a complaint had been received about the spraying of knotweed in the vicinity of the river walk along the Shepaug riverbank. Mr. Gambino said the First Selectman had asked him what could be done about the knotweed and it was decided that he would chemically treat a 70 ft.

section with a systemic herbicide and evaluate the results later. He noted that Mrs. Payne of the Conservation Commission was instrumental in the decision. Mr. Ajello said he inspected the treated section and did not think it would erode. Mr. Ajello asked how long it would be before the chemicals would be inactive and there would be a growth of native species. Mr. Gambino said there was no replanting plan and that he thought the area should be checked again in August to see if a second treatment is required before the area is replanted. Mr. Ajello complained that no one had contacted the Inland Wetlands Commission before the work began. Mr. Gambino said that had been the responsibility of the Town officials. Mr. Papsin thought the area should be replanted as soon as possible to keep the knotweed from regrowing. Mr. Gambino recommended planting thickly with grass until it has been determined whether another application is necessary.

Stiles/15-16 Tinker Hill Road/#IW-13-16/Application to Correct a Violation:

It was noted that the enforcement order still stands and that the Commission is waiting for the consultant's review and recommendations.

Other Business

Ingrassia/143 East Shore Road/Request to Revise Permit #IW-12-01/ Change Planting Plan:

The 5/16/13 letter from Mr. Neff, engineer, was noted. Mr. Ajello said from an inland wetlands point of view the revised planting plan for the stone retaining wall would be an improvement because there would be less soil spread over the wall and so less chance for erosion.

MOTION:

To approve the request to revise Permit #IW-12-01 submitted by Mrs. Ingrassia for a change in the planting plan for 134 East Shore Road per Mr. Neff's 5/16/13 letter and 5/9/13 sketch, "Boulder Wall Section," noting that all previous conditions of approval shall remain in effect.

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

Samgold, LLC./298 West Shore Road/Request to Revise Agent Approval:

Mr. Tittman, contractor, in his 5/16/13 letter noted work that had been done on the property, but had not been included in the 12/3/12 Agent Approval. These were trenching to bring in power from the utility pole on West Shore Road to the garage and the stone stairs that were added in back of the house to level the lawn area. The plans, "Site.01" and Site.02," were reviewed. Mr. Ajello had reported several months ago that these two unauthorized activities had taken place, but said they had no impact to the wetlands. The terrace is approximately 75 feet from the lake. The location of the review area was noted. Before and after photos of the new grassed terrace with stone step edging were circulated. Mr. Tittman said material had been deposited on site to make the terrace area flatter. Mr. Ajello said he would issue a citation for the unauthorized activities. Mr. Tittman informed the Commission that he had not been in charge of the unauthorized work that had been done; he was responsible only for the reconstruction of the house and the front walkway, neither of which was in the regulated area. Mr. Ajello then informed the Commission that violations on the property were continuing. He referred to recent digging by Artistic Irrigation for repairs to the existing irrigation system. Mr. Wadelton stated that this was the second violation and a second citation should be sent. It was noted the current request to amend the permit did not include work on the irrigation system. It was also noted that Mr. Ajello had not sent out a notice of violation to the property owner for any of the violations. It was the consensus of the Commission to act on the request for the patio and trench, but said a future application or request for a revision was required.

for the work being done by Artistic Irrigation. It was also noted that the property owner is ultimately responsible for any work done on his property.

MOTION:

To approve the request to revise the Agent Approval issued to Samgold, LLC. for work at 298 West Shore Road to include the service trench and patio according to the "Landscape Plan – Lot Coverage & Permeable Stone Terraces & Walk- ways," dated 5/16/13 by Mr. Tittman.
By Mr. Wadelton, seconded by Mr. LaMunier, passed 5-0.

Enforcement Report

Lovelace/75 Upper Church Hill Road/Violation: Unauthorized Soil Disturbance, Clearing, Excavation:

Mr. Ajello read the 5/22/13 email from Mr. Lovelace requesting that his fine be reduced to \$150. After a brief discussion it was the consensus that the fine ordinance specified the amount of the fine for each classification of violation and that Mr. Lovelace's unauthorized work had qualified for a \$500 fine because 1) some of it had been done in wetlands and 2) debris had not just been lifted out of the wetlands, excavation had taken place. It was agreed that the amount of the fine would not be reduced in this case. It was noted that Mr. Lovelace could contact the Selectmen's office to ask for a hearing if he was not satisfied.

Administrative Business

Mr. Ajello noted that the Inland Wetland Regulations on line did not include Section 11A. Mr. Bedini will check to see if he has the electronic version of the Regulations and if he does, he will contact the webmaster with revisions.

Information about the DEEP IW commissioners training course was circulated.

MOTION:

To adjourn the meeting. By Mr. Wadelton.

Mr. Bedini adjourned the meeting at 9:25 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,
Janet M. Hill, Land Use Administrator