

# October 9, 2013

7:00 p.m. Upper Level Meeting Room

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

**MEMBERS ABSENT:** Ms. Cheney, Mr. Wadelton

**ALTERNATE PRESENT:** Mr. Davis

**ALTERNATE ABSENT:** Mr. Martino

**STAFF PRESENT:** Mr. Ajello

**ALSO PRESENT:** Mr. Neff, Atty. Ebersol, Mr. Trinkas, Mr. Towne, Mr. Keating, Mr. Szymanski, Residents, Press

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

**MOTION:**

To add the following subsequent business not already posted on the agenda:

V. New Applications:

223 Litchfield Turnpike, LLC./223 Litchfield Turnpike/#IW-13-36/Addition to Building,

VI. Other Business:

D. Nichols Hill Partners, LLC./35 Nichols Hill Rd./Request to Modify Permit #IW-13-26/Change Pond Configuration,

E. Sen/116 Shearer Road/Request to Modify Permit (and possibly request an extension)/#IW-08-59/Construct Stonewall,

F. DEEP Streamflow Classifications Information Sessions,

G. CACIWC Annual Meeting and Conference/Sign Ups.

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

## **Consideration of the Minutes**

The 9/25/13 Regular Meeting minutes were accepted as corrected.

Page 5: Under the first motion for Herrmann: Delete: "and passed 3-0."

Page 7: Under Chatfield-Schellerer: Delete: "He also installed a length of 4" diameter pipe without permits (which went over the septic area.)" At the end of the second sentence add: "...in the vicinity of apparent wetlands."

Page 8: Change the 4th sentence to: "Mr. Ajello said the Commission may need an invasive species control plan."

**MOTION:**

To accept the 9/25/13 Regular Meeting minutes as corrected.

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

## **Pending Applications**

Herrmann/92 East Street/#IW-13-33/Dredge Pond:

Mr. Ajello reported that Steep Rock had not yet submitted written approval for the proposed work. He will contact Mr. Law again prior to the next meeting. Anderson/30 Tompkins Hill Road/#IW-13-34/Clean Pond:

Information presented at the last meeting was briefly discussed; the pond is spring fed with no inlet stream and has a grassed emergency overflow weir. The commissioners had no questions or concerns.

**MOTION:**

To approve Application #IW-13-34 submitted by Mrs. Anderson to dredge the pond at 30 Tompkins Hill Road per the two page, "Site Plan Pond Restoration," by Brian J. Baker, P.E., dated September 17, 2013; this permit is 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. Davis, and passed 4-0.

Nauiakas/170 Church Hill Road/#IW-13-35/Driveway Entrance Improvements:

Mr. Neff, engineer, pointed out the location of the driveway entrance on his plan, "Proposed Driveway Entrance Improvements," dated 9/16/13 and noted it was within the regulated area. Four foot high stone walls and an electric gate were proposed. Mr. Neff stated a conduit would be installed from the electrical panels down by the pond to the gate. Mr. LaMunier said given the project description and sequence of construction, there would be no impact on the wetlands.

**MOTION:**

To approve Application #IW-13-35 submitted by Ms. Nauiakas, 170 Church Hill Road, to make driveway entrance improvements per the one page plan, "Proposed Driveway Entrance Improvements," by Brian Neff, P.E., dated 9/16/13; this permit is 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. Davis, seconded by Mr. Papsin, and passed 4-0.

**New Applications**

223 Litchfield Turnpike, LLC./223 Litchfield Turnpike/#IW-13-36/ Addition to Building:

An addition for a bar for the existing restaurant was proposed. Mr. Neff, engineer, explained the property owner had purchased 29 Wilbur Road so that the increase in the septic system required for the bar could be accommodated on this second property on the other side of Wilbur Road. The plan, "Soil Erosion and Sediment Control Plan," by Mr. Neff, dated 10/2/13 was reviewed and the septic plans were briefly discussed. Mr. Ajello thought the proposed plan would relieve septic

impact on the neighborhood. It was noted the proposed addition would be 10 ft. from the wetlands, but included a deck, which would be only 2 ft. to the wetland boundary and that the wetlands on the property had been “heavily disturbed” over the years although remediation vegetation had been planted. Mr. Neff noted the addition would have a frost wall foundation and the deck would have piers at the corners. He said that prior to the installation of the deck, it would be possible to maneuver construction equipment to work on the bar addition without disturbing the wetlands. Mr. LaMunier said that although the addition and deck would be close to the wetlands, the site was very constricted and the addition was a business necessity. He asked if the addition could be moved to the east so it would be a little farther from the wetlands. Mr. Bedini asked if there was an alternate location for the deck. Mr. Neff said he would ask the architect to consider other locations, which would reduce the impact on the wetlands.

## **Other Business**

### Straw Man LLC./135 Bee Brook Road/#W-09-44/Request for Extension of Time for Bridge Work Related Activities:

Atty. Ebersol, Mr. Trinkas, engineer, and Mr. Towne, contractor, represented Straw Man, LLC. Atty. Ebersol requested an extension of the timeline in the original approval to allow the temporary bridge to be used for a few additional weeks. Mr. Trinkas thought the original deadline had been arbitrary and explained why work could be done beyond September 30 without adverse impacts to the wetlands by anticipating wet weather conditions, preparing for them, and stabilizing in advance. He also noted that the temporary bridge would completely span the wetland corridor, would be 6 feet above the watercourse, would not reduce the flow capacity of the brook, and would not impact the wetlands. He described how the temporary bridge would be constructed, including first the installation of erosion control measures so that if any soil was disturbed, they would already be in place. He also noted it was an accepted practice for stabilization to spread 6 inches of wood chips over disturbed areas where grass could not be established before the cold weather. He said the temporary bridge was needed an additional 2 or 3 weeks so a small excavator could access the site to do additional soil testing. Mr. Bedini asked what the plans for building the permanent bridge were and when it would be built. Mr. Trinkas reviewed the construction sequence, noted that due to concerns about the 100 year flood plain previously raised by the Commission, the bridge’s “substantial” steel beams would extend 45 feet across the brook, and said it would probably be constructed in the spring. That being so, Mr. Bedini thought it could be constructed as stated in the condition of approval; between June and September next year. Mr. Trinkas advised the Commission that the work should be done based on weather and low flow conditions and not limited to a specific time frame. He said he thought 9 months was a reasonable period for the temporary bridge to remain in place. Mr. LaMunier noted that usually the low flow time of year is June through Sept. and asked why the permittee had waited until the last day to submit the required paperwork so that the work could begin. Mr. Trinkas said he had been working on other projects and did not have time to design the bridge until the end of Sept. Mr. Bedini noted the purpose of the temporary bridge had now changed from construction of the permanent bridge to construction of that bridge plus access to the property to conduct soil testing. He asked if an application had been submitted for this change. Atty. Ebersol stated this was not really a change and that the request was for an extension of time. Mr. Bedini countered that both the purpose of the temporary bridge and the length of time it would be used were changing. Mr. Trinkas stated that a modification of the previously issued permit was being requested and that per state statutes a new application was not required. Mr. Bedini read Section 8-08 of the Town’s Inland Wetlands

Regulations re: applications to renew or amend existing permits. Atty. Ebersol explained the request for an extension was not a material change to what would be done as far as bridge construction. Mr. Davis said that technically the purpose of the bridge would change and the amount of traffic over it could change. Mr. Trinkas asked what the impact to the wetlands would be if a small excavator was allowed to cross the temporary bridge for additional soil testing, especially since erosion controls were already in place. Mr. LaMuniere stated that although the likelihood of damage to the stream was minimal, he thought a separate application for the temporary bridge was required. Mr. Bedini agreed, saying the Commission's attorney had advised him an application was needed, adding that if the bridge was in place for 9 months, it would be difficult to control its use by others and there would be the potential for vehicles to fall into the brook. Mr. Trinkas responded that if the request for an extension was granted, concrete barriers could be placed to block the bridge to limit its use by others. Mr. Bedini asked for a written explanation of exactly what the temporary bridge would be used for, how long it would be up, how it would be maintained, how it would be protected, etc. Mr. Towne noted that the brook also had to be crossed in order to conduct additional soil tests for the bridge footings. Mr. Bedini said additional soil tests were fine, but were a change from what the Commission had understood the original permit to be. Atty. Ebersol questioned whether the Commission's attorney had, indeed, thought that the purpose of the temporary bridge was germane to the application as he had understood it was what would be constructed and how it would impact the wetlands that were the Commission's concerns. Mr. Bedini said that activities within 100 ft. of wetlands are under the Commission's jurisdiction even though from the start no one thought that either of the bridges would impact the wetlands. He again said a new application was needed for the temporary bridge.

#### Keating/67 West Shore Road/#IW—12-27/Revision of Approved Planting Plan:

Mr. Keating stated that after the construction of the deck had been completed, it was noticed that a significant maple had been cut down. No one knew who cut it down or whether Lewis Tree Service may have cut it when cutting trees near the power lines. Mr. Ajello noted that at the last meeting the Commission had approved an amendment to the originally approved planting plan so that planting was no longer required in the area between the fence and the road, but had expressed its concern about the loss of shade from the maple. Mr. Papsin asked for a revised planting plan to address the loss of the maple. Mr. Davis noted both the canopy over the lake and the root system to stabilize the bank were concerns of the Commission. Mr. Keating indicated he was willing to replace the tree. Mr. Ajello advised him to select a tree that would spread out rather than grow tall. Mr. Keating will consult with Lewis Tree Service to find out if it cut the tree and will show them the enforcement letter he received if it did.

#### Sen/116 Shearer Road/Request to Modify Permit #IW-08-59 to Construct a Stonewall:

Mr. Szymanski, engineer, submitted the \$25 fee for the request for a revision of the permit. The plan, "Proposed Stone Retaining Wall and Grading," by Arthur H. Howland and Assoc., dated 10/3/13 was reviewed. Mr. Szymanski explained the proposal was to level out the 60 ft. by 50 ft. area along Shearer Road using a maximum 100 yards of material and to construct a dry stonewall that would be 6 feet tall at its highest point and taper down at its ends. He said it would cause temporary disturbance to the outer edge of the upland review area, but would provide a good permanent barrier for the wetlands on the downhill side of the wall. It was thought that the proposed flat area would allow for greater infiltration of water than do the existing contours. Mr. Szymanski said he would amend the plan to include the planting of a wet meadow mix behind the stonewall and would submit this revised plan to the Commission. There were no questions or concerns from the commissioners. Mr. Ajello noted the current permit would expire on 11/25/13 and said he had

expected a request for an extension. It was noted that such requests should be received 65 days prior to the expiration date of the permit and so Mr. Szymanski was advised to submit this as soon as possible.

**MOTION:**

To approve the request to amend Permit #IW-08-59 issued to Reemah Sen, 116 Shearer Road, to add the construction of a stonewall per plans by Arthur H. Howland and Assoc. dated 10/3/13, and amended by Mr. Szymanski, P.E. on 10/9/13.

By Mr. Davis, seconded by Mr. Papsin, passed 4-0.

Nichols Hill Partners, LLC./35 Nichols Hill Road/Request to Modify Permit #IW-13-26/Change in Pond Configuration:

The plan, "Proposed Pond Two Pond Alternate," by Reed Hilderbrand, dated 9/26/13 was reviewed. Mr. Ajello read the 10/4/13 letter, which proposed two ponds instead of the one that was previously approved. It was noted there were no significant wetlands in the vicinity, the existing pond had no inlet or outlet, and the pond was supplemented by a well. In response to a question from Mr. LaMuniere, Mr. Ajello stated that the proposed contours are approximately the same as those previously approved.

**MOTION:**

To approve the request by Nichols Hill Partners, LLC., 35 Nichols Hill Road, to modify Permit #IW-13-26 to change the pond configuration per the plan, "Proposed Pond Two Pond Alternate," by Reed Hilderbrand, dated 9/26/13.

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

Update re: State Spraying of Herbicides Near Wetlands and Watercourses:

There was no new information to discuss.

DEEP Streamflow Classifications Information Sessions:

Times and locations of these information sessions were noted.

CACWC Annual Meeting and Conference:

Registration sheets were circulated for the 11/16/13 annual meeting and environmental conference.

**Enforcement Report**

The following topics were covered in Mr. Ajello's 10/9/13 report.

Berg/22 Foulis Road:

The property owners received notification of the fine 2 weeks ago. Their landscaper has requested a preliminary discussion with the Commission regarding the unauthorized drainage work that was completed. Mr. Ajello advised her that the fine must be paid no matter what the outcome of this discussion.

Broderick/219 Church Hill Road:

This stream crossing was completed.

Collins/321 West Shore Road:

There was no change reported.

Deperno/63 Wykeham Road:

The work is completed and there was no activity near the wetlands.

Fleishmann/219 Roxbury Road:

The driveway is stable and the file will be closed.

Ingrassia/143 East Shore Road:

The landscaping contractor is concerned about the steepness of the site and will propose a natural stone retaining structure with grass implants. The stairs referred to in the previous report were temporary and have been removed.

Issavi/19 Tinker Hill Road:

Few invasives were found on the property. Stepping stones will be used on the steep bank along the road to prevent erosion. The new owner will propose a planting plan in the future.

Kessler/105 West Mt. Road, Harris/193 West Shore Road, Lancaster/244 West Shore Road:

There was nothing new to report.

Lautier/56 June Road:

Mr. Lautier has submitted the engineered design specifications for the interlocking block wall as required and erosion control details.

Pakula/50 Hinkle Road:

The driveway construction is done and the erosion controls are in good shape.

Randall/74 West Morris Road:

Mr. Ajello asked Mr. Randall to complete the required clean up work as soon as possible and to notify him as soon as he starts.

Straw Man, LLC./135 Bee Brook Road:

Mr. Ajello noted that the required "starting documents" had been submitted, but that one condition of approval states that all bridge related work must be done before the end of September. Mr. Ajello stated that all of the proposed work was bridge related activity, but Mr. Bedini said he had consulted with Atty. Olson who had advised him that the language of the condition was vague and that the court would side with the property owner. Therefore, a compromise had been reached that driveway work could be done within 25 feet of the streambank until such time as the Commission approves the bridge work and the owner's agent had been OK with this. He said the owner had been so informed by letter. Mr. Bedini also said that in the future the Commission should be more specific. He used the term, "temporary" as an example of a term, which should have been more clearly defined. Mr. Ajello had inspected the erosion controls and had found them to be satisfactory. Mr. Bedini noted Straw Man could submit a new application for the temporary bridge or wait until June to begin the bridge work under the current permit. Mr. Ajello again argued that all of the work to be done was bridge related because the bridge was only a portion of the entire crossing as there were additional wetlands beyond it.

MOTION: To adjourn the Meeting. By Mr. Davis.

Mr. Bedini adjourned the Meeting at 9:00 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill, Land Use Administrator