

March 23, 2011

6:00 p.m. Land Use Meeting Room

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

MEMBER ABSENT: Mr. LaMunier

ALTERNATES PRESENT: Mr. Martino, Mr. Papsin

ALTERNATE ABSENT: Ms. Cheney

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

ALSO PRESENT: Mrs. Weeks, Mr. Wilson, Mr. Gambino, Mr. Neff, Mr./Mrs. Klein, Mr./Mrs. Frank, Mr. Wellings, Mr./Mrs. Ernhout, Mrs. Sutter, Mr. Thorn, Mr. Sabin, Atty. Sienkiewicz, Residents

PUBLIC HEARING

Klein/271 West Shore Road and 236 Tinker Hill Road/#IW-11-03/ Construct Driveway

Mr. Bedini called the hearing to order at 6:02 p.m. and seated Members Bedini, Bohan, Hill, and Wadelton and Alternate Papsin for Mr. LaMunier. Mr. Wadelton read the list of documents in the file. Mr. Bedini read the legal notice published in Voices on 3/9/11 and 3/20/11.

Mr. Neff, engineer, submitted a letter to the Commission dated 3/23/11 and presented his plans, "Driveway Entrance Plan" and "Soil Erosion and Sediment Control Plan," both revised to 3/23/11. He noted the letter and revisions were in response to Land Tech's 3/22/11 review. A gravel driveway from West Shore Road is proposed to access the 83 acre property, which has access on three roads. Mr. Neff said all of the accesses had been considered and referred to his map, "Alternate Driveway Plan," dated 1/20/11. He stated the West Shore Road driveway would have the least impact to the property because driveways from Tinker Hill and Ash Swamp Roads would be quite lengthy and would require an enormous amount of tree cutting and regrading, while the West Shore Road driveway would require no tree clearing and only minimum disturbance to the land. He pointed out where the driveway would cross wetlands, noting that 960 sq. ft. would be disturbed and that this represented 5% of the wetland area adjacent to West Shore Road. He also noted the driveway would cross the wetlands at its narrowest point. He described the proposed catch basins, rain garden, and rip rapped swale for drainage, noted the cuts and fills on both sides of the driveway would be stabilized, and said an erosion blanket would be installed on the upper side of the cut area for extra stabilization per Land Tech's recommendations. He also described how the stormwater management system would work to allow silt and sediment to settle out of the runoff before the flow reaches Lake Waramaug. He stated the application included the limit of disturbance, proposed grading, specifications for the driveway construction, driveway cross sections, erosion control installation details, cross section of the proposed rain garden, and construction sequence.

Mr. Wadelton read the 3/23/11 letter from Mr. McGowan against the proposed driveway location.

Atty. Sienkiewicz represented Mrs. Weeks, the adjoining property owner at 265 West Shore Road. He asked the Commission to continue the public hearing to allow the public the opportunity to review the revised plans.

Mr. Wilson, engineer, represented Mrs. Weeks and listed his qualifications. He stated he had not reviewed the 2 ft. contour plan, but had the following general comments: 1) The driveway as proposed would direct the sheet flow into limited discharges of concentrated flow, which would increase the saturation of the soils down slope. 2) There was no estimate on the quantity of material to be disturbed and no information on how large the cut and fill would be. 3) Because the soil in the area is glacial til with fine particles, it would be picked up by the stormwater and would not settle out prior to reaching the lake, which would cause turbidity. He was concerned with both the "erodability" of the soil and the

turbidity discharge to the lake. 4) A probable future house site would require the driveway to be lengthened by 700 to 800 ft., making it more comparable to the Tinker Hill access. 5) Driveway discharge from either the Tinker Hill or Ash Swamp Road access would have more of a chance for treatment prior to reaching the lake. 6) A major concern was the amount of exposed slope during the actual driveway construction. He concluded that both the Tinker Hill and Ash Swamp Road accesses were superior to the proposed driveway from the point of view of protection of the lake.

Mr. Bedini asked for his comments in writing.

Mr. Logan, environmental scientist, presented his resume and letter dated 3/23/11. He stated he agreed with the points made in Mr. McGowan's letter but said he wanted to review the revised plans and submit a more substantial review. The points he made included the following: 1) When he inspected the site he found an additional wetland that originates as a seep near the proposed driveway and drains towards the Weeks property and said this wetland must be taken into consideration. He recommended that it be delineated by a soil scientist and he provided photos of the area. 2) He said the hydrology of the flagged wetland is derived from significant shallow groundwater discharge, which would be intercepted when the driveway cut is made, resulting in the dewatering of a small portion of the undisturbed wetland. He said although this would be an impact, it would not completely dry it out. 3) He recommended that the Commission look at feasible and prudent alternatives, which would cause less direct and indirect impact to the wetlands. The proposed driveway on steep slopes next to the lake would cause more impact than would a driveway farther from the lake where there would be sufficient area for proper stormwater controls. 4) He said fines from the property were already reaching the lake and he pointed out the sediment filled catch basins in the area. 5) He stated that rain gardens require a 2 ft. separation from the bottom of the rain garden to the seasonal groundwater level and it had not been proven this was possible in its proposed location. Mr. Neff referred to the cross section of the rain garden in his plans. Mr. Logan said he would review it again and provide more specific comments.

Mr. Martino questioned Mr. Logan's statement that the driveway cut would intercept the water flowing into the wetland because he thought the groundwater would continue to flow through the gravel. Mr. Logan said he was "pretty sure" the wetland would be impacted because the hydrology would be changed, although not throughout the entire wetland.

Mr. Logan also stated that some of the fines would get into the rip rap in the swale making less infiltration possible. He also thought the gravel driveway would generate fines in close proximity to the lake. He recommended the driveway be installed as far from the lake as possible and that the originally approved Tinker Hill Road access be used.

Mr. Bedini asked Mr. Logan to submit his follow-up report as soon as possible.

Mr. Neff asked Mr. Logan if Mr. Allan from Land Tech had identified wetlands soils in the additional area he had referred to. Mr. Logan said, no, they had not looked at this area together. Mr. Neff asked if Mr. Logan would delineate the new wetland on the Weeks property. Mr. Logan said he would if the Commission wanted it done. He did not think it would be touched by the proposed grading, but he was not sure. Mr. Bedini asked Mr. Neff if he would work with Mr. Logan to delineate the additional wetland.

Atty. Sienkiewicz read Section 11.02.f of the Inland Wetlands Regulations, which states the Commission shall consider impacts made inevitable by the proposed activity. He noted in his letter that Mr. McGowan had suggested the proposed 500 ft. long driveway would be extended to serve a dwelling on the property. He presented the site plan for Application #IW-07-66, which showed a feasible house site 1000 ft from West Shore Road. He also submitted the 1/8/08 and 1/23/08 reports from Stansfield Environmental Services from that file and the "Declaration of Restrictive Covenants" dated 11/4/2009, which placed a building restriction within 200 ft. of the property line. He submitted a

copy of Map #1830 on which this restricted area was highlighted. He said that feasible and prudent alternatives had been considered at the time of the subdivision application and the Tinker Hill Road access had been found to be the best because there were no wetlands in that area. He then read Section 11.02.b of the Regulations, which states the applicant's purpose and feasible and prudent alternatives must be considered. He also submitted excerpts from the 2007 and 2008 minutes pertaining to the subdivision application. He referred to minutes from January 2009 in which Mr. Neff is reported to have said that the Tinker Hill Road driveway would have less impact to wetlands than would a driveway from West Shore Road. Atty. Sienkiewicz said the Commission must consider what will ultimately be on the property.

Mr. Bedini responded the Commission would consider the application before it.

No one else had any written information to submit.

At 7:22 p.m. Mr. Bedini continued the public hearing to Wednesday, April 13 at 5:00 p.m. in the Land Use Meeting Room.

This hearing was recorded. The audio is on file in the Land Use Office, Bryan Memorial Town Hall, Washington Depot, Ct.

REGULAR MEETING

Mr. Bedini called the Regular Meeting to order at 7:27 p.m. and seated Members Bedini, Bohan, Hill, and Wadelton and Alternate Papsin for Mr. LaMuniere.

MOTION:

To add the following subsequent business to the Agenda:

V. New Applications:

B. Rosen/ 304 Nettleton Hollow Road/#IW-11-05/ Application to Correct Violations/Restore Buffer and Streams.

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

Consideration of the Minutes

The March 9, 2011 Regular Meeting minutes were accepted as corrected.

Page 2: The correct address in the motion is 35 East Shore Road, not East Street.

Page 2: Under Carter: line #10: Change to: "...excavator, which would access the brook from Walker Brook Road, park on the sandbar, and reach across the brook."

MOTION:

To accept the 3/9/11 Regular Meeting minutes as corrected.

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

The 3/22/11 Klein site inspection minutes will be considered at the next meeting.

Pending Applications

Klein/271 West Shore Road and 236 Tinker Hill Road/#IW-11-03/ Construct Driveway:

It was noted the public hearing was continued to 5:00 p.m. on April 13, 2011 in the Land Use Meeting Room.

New Applications

Thorn/228 West Shore Road/#IW-11-04/Install Dock:

Mr. Thorn presented the map, "Additions and Renovations to the Residence of Weston and Karen Thorn," Sheet SP-1, revised to 3/9/11. He stated a boulder from which the dock would extend would be set back 16 ft. from the shoreline. Mrs. D. Hill asked if excavation would be required. Mr. Thorn said, yes, a little, but only on land above the high water elevation of the lake. Mr. Wadelton noted there would be no disturbance to the shoreline. Mr. Thorn stated the wood base of the dock would be covered with a man made substance that would not erode or get hot and the wood frame would be pressure treated wood. It was noted that Trooper Sordi had reviewed and OK'd the 80 ft. long dock as it was thought that due to its length it might be a potential safety hazard. Because it will be located in a protected cove with shallow water, it will not extend into navigable areas. 250 lb. mooring blocks chained to the dock will secure it at the far end. Mr. Ajello stated that a suitable location was proposed, the materials to be used had been researched, and there would be no disturbance to the shoreline. It was determined that a site inspection was not necessary.

Douglas/68 Painter Ridge Road/#IW-11-06/Application of Herbicide:

Mr. Gambino, contractor, represented the property owner. He said the application now being applied for was the same as the one approved in 2008 except that there were now different weeds in the pond. The property owner was not sure yet if treatment would be needed, but wanted to be ready with a permit in case the weeds reoccur. Mr. Gambino stated that copper sulphate would be used if there was an algae bloom, Diquat for the removal of subsurface weeds or grass around the edge, and Rodeo would be applied for killing sedges, cattails, and phragmites. He noted information sheets were included in the application. The large pond has no outflow device and flows into a smaller pond on the property. Mr. Gambino said if treatment was necessary, he would do it when the water was low and would photograph the conditions before applying the chemicals. It was noted that in 2008 alternative treatments had been recommended to Mr. Douglas. Mrs. Hill again recommended that he plant a buffer around the pond. Mr. Gambino noted the Town directs road runoff onto the property, saying it flows over two well heads and exacerbates the weed problem. Mr. Ajello responded that the Town had rip rapped the drainage swale, but had not changed its path, and had no further responsibility in this matter.

Rosen/304 Nettleton Hollow Road/#IW-11-05/Application to Correct Violation/Restore Buffer and Streams:

Mr. Sabin, landscape architect, presented the revised plan, "Proposed Stream and Buffer Restoration at Stonebrook Estate," dated 3/22/11. He said the plan included revisions recommended at the last meeting and the construction of the unauthorized gatehouse because he needed IWC approval by 4/21/11 in order to apply to the ZBA for a variance. He detailed the revisions made since the last meeting. 1) He provided specific names, quantities, sizes, and locations of the vegetation to be planted. 2) Per Mr. LaMunier's request, he had extended the length of channel to be realigned, bringing it farther up slope to 50 ft. below the driveway. He had originally proposed that 120 ft. be restored and naturalized, but increased the length to 210 ft. At the opposite end, the channel will end in a 30 ft. wide two tiered level spreader. Construction procedures were briefly discussed. Mr. Sabin stated he would consult with the contractor regarding whether to install a temporary rip rapped channel or a temporary pipe. He thought the channel realignment would take four days. 3) He said that test holes would be dug to determine how much over burden would be removed and said the existing trees would not be touched. 4) The area of maintained lawn would be reduced and converted to wet meadow. 5) The multiflora rose along the driveway will be removed, but the other native shrubs would be left in place. 5) The weir board will be replaced with a granite slab placed 4 ft. above the pipe. Mrs. D. Hill recommended that a site inspection be conducted. This was scheduled for Thursday, April 7, 2011 at 5:45 p.m. Construction plans for the gatehouse and wing walls were reviewed. Stone veneer on the existing wing walls, the gatehouse that has already been constructed, and an additional 14 to 15 ft. long, 5 ft. high wall to support hydraulic automatic gates are proposed. It was noted the additional wall

would require a footing. Mr. Neff is working on hydraulic computations for the next meeting. The plans, "Gatehouse at Stonebrook Estate," by Mr. Sabin, dated 3/22/11 were briefly reviewed.

Later in the meeting Mr. Bohan asked if the Commission should hire a consultant to review the proposed restoration plans as it has done in the past for other restoration projects. Mrs. Hill noted the restoration plan looks OK, but wondered considering the two egregious violations, whether enough mitigation was proposed. It was the consensus that this would be decided after the site inspection has been conducted. Mr. Ajello noted that the \$1500 in fines paid by Mr. Rosen was the largest amount ever collected by the Commission. It was also noted that perhaps a condition requiring long term protection of the restored area would be warranted.

Enforcement Report

Brose/213 Roxbury Road:

There were no changes since the last meeting.

Carter/Walker Brook Road:

Mr. Ajello reported that the rip rap had been put in place and the Town had filled the holes in Walker Brook Road so that it is temporarily passable.

Schellerer – Chatfield/19 Tinker Hill Road:

Either a site development plan or a restoration plan as specified in the enforcement order that was sent several months ago is still required. Mr. Ajello said he had photos of the damage caused from the runoff from this property and of the improperly installed silt fence.

DePecol/269 Nettleton Hollow Road:

The timber harvesting began the day after the last meeting, although a Start card was not submitted.

Kinney Hill, LLC./27 Kinney Hill Road:

The project is nearing completion but Mr. Ajello has not yet signed off.

Leary/164 West Shore Road:

The excavation hole has been refilled and the propane tank buried. All disturbed areas will be raked, seeded, and mulched.

Ranieri/58 Nettleton Hollow Road:

Mr. Ajello will write to Mr. Ranieri to invite him to attend an upcoming meeting for a preliminary discussion of the dam repair and replacement of the outflow pipe and overflow weir.

Smith/35 East Shore Road:

The relocation of the shed was approved by the ZBA and it will be moved when the weather is drier.

Wexler/157 Calhoun Street:

Mr. Ajello has contacted the contractor regarding concerns about the driveway construction. He will check the plans to see whether an anti-tracking pad was required.

Other Business

Shoreline Protection Policies:

Mr. Bedini read an email between Mr. Markert and Mrs. Payne of the Conservation Commission, which applauded efforts by the IWC to work on regulatory improvements to address current conditions around Lake Waramaug.

Update on DEP Pesticide Permits:

Mr. Ajello noted the information circulated at the last meeting was part of the process to incorporate

DEP and EPA regulations into the state's new Dept. of Energy and the Environment.

Executive Session

MOTION:

To go into Executive Session at 8:45 p.m. to discuss the Peacocke appeal of the Wykeham Rise approval.

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

MOTION:

To end Executive Session at 8:55 p.m.

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

MOTION:

To adjourn the Meeting. By Mr. Bohan.

Mr. Bedini adjourned the Meeting at 8:57 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,
Janet M. Hill
Land Use Administrator