

June 22, 2011

Special Meeting

6:00 p.m. Land Use Meeting Room

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

MEMBER ABSENT: Mr. Bohan

ALTERNATES PRESENT: Ms. Cheney, Mr. Papsin

ALTERNATE ABSENT: Mr. Martino

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

ALSO PRESENT: Mr. Horigan, Mr. Neff

Mr. Bedini called the Special Meeting to order at 6:02 p.m. and seated Members Bedini, Hill, LaMuniere, and Wadelton and Alternate Papsin for Mr. Bohan.

Pending Applications

Lancaster-Fuchs/18 Sabbaday Lane/#IW-11-16/Dredge Pond, Drainage Improvements:

Mr. Neff, engineer, noted that during the site inspection the Commission had discovered unauthorized drainage work near the garage and so said he had revised the plans to include it. The map, "Pond Cleanout Plan," by Mr. Neff, revised to 6/20/11 was reviewed. Mr. Neff explained that erosion had resulted when drainage flowed across the driveway due to a plugged pipe. He proposed to run a drainage pipe in the trench already dug by the owners (under the driveway, around the garage, and into the pond) to dig a silt basin at the pipe inlet, and to put in a catch basin at the end of the pipe. He said a small catch basin was also proposed on the east side of the driveway. Mr. Ajello was concerned that all of the runoff would be concentrated and would run directly to the pond without treatment. Mr. Neff responded that all of this drainage had already been reaching the pond. Mr. Ajello said that sand and salt from the driveway, garden chemicals, and heated water from roof runoff in the summer would now flow directly into the pond. Mr. Neff said that the ponds were man-made, the area was predominately wooded with many shade trees, and the proposal would handle the runoff to prevent erosion. Mr. Ajello said the flow would be accelerated. Mr. Papsin asked how deep the existing swale was along the driveway and suggested the water could be slowed down by deepening it and lining it with rip rap. Mr. Neff said it was 8" deep and agreed that rip rap would slow the flow. Mrs. Hill asked if periodic cleaning of the pipe was included in the plans. Mr. Neff said the pipe would need it and that a condition could be included in the motion. Mr. Papsin agreed the pipe would need regularly scheduled maintenance, but Mr. Bedini said the Commission would not be able to enforce it. Mr. Ajello recommended that part of the lawn by the shore of the pond be planted to give the runoff an opportunity to filter. Mr. LaMuniere noted the erosion he had observed during the site inspection and asked if the existing swale was sufficient to handle the runoff. Mr. Neff said the proposal was not to design a drainage plan for the entire property, but to address the work done without a permit. Ms. Cheney asked whether the pond dredging and drainage improvements should be two separate applications. Mr. Bedini said that at the site inspection, the commissioners had suggested the drainage work be added to this application. Mr. Ajello noted that if the drainage work had not already been started, the Commission would have expected a more comprehensive plan. Mr. Neff again stated the proposed drainage plan was only to address the specific problem in one area of the property. Mr. LaMuniere thought the pond cleaning plan was well thought out, but that the drainage plan was just an attempt to make it look like what the owners had already done was OK. He asked if it would fix the erosion problem. Mr. Neff stated that the proposal was not changing the direction of the flow, but would help to alleviate the problem. He also stated there was no reason to dig another ditch a few feet away because the owners had dug their ditch in a logical location and that the pipe to be installed

would not be erosive, whereas the overland flow was. Mr. Papsin said he would like the swale deepened and lined with rip rap and the washed out area between the maple trees to be planted to help hold the soil. Mrs. Hill asked if there would be any benefit to a larger splash pad. Mr. Neff said the proposed pad was large enough to break up the flow as it comes out of the pipe. It was the consensus that the swale should be deepened and lined with rip rap and the eroded area between the maples should be planted. Mrs. Hill noted that the owners mow up to the edge of the pond and that the shoreline could use plantings. Mr. Neff said this was an existing pond; that the Commission recommends plantings around new ponds. Mr. Wadelton stated the Commission could only recommend plantings around an existing pond, it could not require them. Mr. Neff said he would discuss this recommendation with the owner. The swale on the west side of the driveway was discussed. Mr. Neff agreed to extend the swale 60 feet on both sides of the silt basin. Mr. Ajello complained that by doing this even more water would be picked up, concentrated, and piped directly to the pond without any filtration or infiltration. He recommended a biofiltration area be installed. Mr. Neff offered instead to use perforated pipe set in crushed stone for the last section of pipe between the garage and the pond. Mr. Ajello questioned whether 30 ft. of pipe could handle that amount of water and said an infiltration area would be another option. Mr. Neff again explained his plan was to address only the specific drainage problem of the erosive flow over the driveway. Mr. Neff said he would take another look at the problem and revise the drainage plan for the next meeting. Mrs. Hill asked that he amend the application form to include the drainage improvements. Regarding the pond dredging, it was noted that part of the northern pond was off the property. Mr. Neff stated there would be no work done on the adjoining property.

105 West Shore Road, LLC./105 West Shore Road/#IW-11-17/Relocation of Driveway:

Mr. Horrigan, contractor, and Mr. Neff, engineer, were present. Mr. Neff presented his plan, "Driveway Relocation Plan," revised to 6/17/11, which, he said, included the following revisions based on the discussion at the site inspection: addition of 1) a row of staked hay bales for extra protection behind the silt fence down grade of construction and three short sections of erosion controls in the area to be used for stockpiling, 2) a note that the retaining wall will not exceed 4 ft. in height, and 3) jute blankets on the banks to hold them in place until stabilized with vegetation. Mr. Ajello asked if the area between the wall and the limit of disturbance on the lake side would have a steep bank. Mr. Neff said it has an existing steep bank. Mr. Ajello asked how deep the soil would be mounded behind the back side of the wall. Mr. Neff said it would not have more than a 1:2 slope. He noted the construction of the retaining wall would keep the disturbed area limited and reduce the number of trees that had to be cut. Mr. Horrigan noted the service would be trenched up the driveway. MOTION:

To approve Application #IW-11-17 submitted by 105 West Shore Road, LLC. to relocate the driveway at 105 West Shore Road per the plan, "Driveway Relocation Plan," by Mr. Neff, dated 5/27/11 and revised to 6/17/11; permit to be valid for two years; 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 the 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. Wadelton, seconded by Mr. Papsin, and passed 5-0.

Other Business

Proposed Settlement of Litigation: Case entitled, "Teresa Rosen Peacocke v. Inland Wetlands Commission of the Town of Washington," filed in the Superior Court, Judicial District of Litchfield,

Docket No. LLI-CV-10-6001405-S:

It was noted that Atty. Zizka had drafted the following motion for the Commission to consider:

MOTION:

To approve a proposed stipulation for judgment in the case entitled, "Teresa Rosen Peacocke v. Inland Wetlands Commission of the Town of Washington," filed in Superior Court, Judicial District of Litchfield, Docket No. LLI-CV-10-6001405-S, under which the court would vacate, and declare null and void, Permit #IW-09-39, which this Commission granted to Wykeham Rise, LLC. on December 22, 2009 for regulated activities in connection with an affordable housing development.

By Mr. Wadelton, seconded by Mr. Bedini.

Mr. LaMuniere noted that in paragraph 4 of the Motion for Judgment in Accordance with Stipulation, Wykeham Rise, LLC. was aware of the agreement, but chose not to participate and that if Wykeham wanted a permit in the future, it could resubmit. He said he had no problem with the motion.

Mr. Wadelton said Wykeham Rise, LLC. had no obligation to get involved in the suit. He said the Commission should not vacate a permit it issued in good faith. He thought that would set a dangerous precedent.

Ms. Cheney asked whether the permit issued was for 2 years or 5 years. Mr. Bedini said it was valid for 5 years.

Mr. Wadelton said it would be irresponsible for the Commission to take the permit from Wykeham Rise, LLC.

Mr. Bedini thought vacating the permit would penalize Mr. Klauer without reason.

Mr. Wadelton made another strong statement against the motion and stated that he thought it would be immoral and unethical for the Commission to change its vote. He also noted that the Commission did not have any written advice from Atty. Zizka recommending that the Commission approve the motion.

Mr. Papsin and Ms. Cheney noted that Atty. Zizka had written the motion of approval.

Mr. Wadelton responded that Atty. Zizka was forwarding the matter brought up by Mrs. Peacocke's attorney and said he had not provided his opinion for the Commission.

Mr. Bedini said the Commission could put off the vote and ask Atty. Zizka for clarification.

Mrs. J. Hill noted that should the permit be invalidated, it could not be concluded that either side had made an error, but Mr. Bedini felt that logically it would mean the Commission had erred in its approval of the permit. He thought the applicant could sue the Commission for vacating his permit.

Mr. LaMuniere thought the applicant's silence did not indicate he agreed to vacate the permit and so the Commission should not do so unless the applicant agreed.

Mr. Wadelton stated that the Commission had not made a mistake in granting the permit and the approval would withstand the appeal.

It was the consensus that the granting of the permit was legitimate, that saving money on legal fees was not reason enough to vacate it, and that Mrs. Peacocke could continue with the appeal.

Vote: 0-5.

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

The meeting was adjourned at approximately 7:30 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,
Janet M. Hill
Land Use Administrator