

January 14, 2009

Public Hearings – Regular Meeting

5:00 PM, Land Use Meeting Room

MEMBERS PRESENT: Mr. Bedini, Mrs. D. Hill, Mr. LaMuniere, Mr. Wadelon

ALTERNATE PRESENT: Mr. Bohan

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

ALSO PRESENT: Atty. Strub, Mr. George, Mr. Lord, Mr. Neff, Mr. Sanford, Mr. Hileman, Mrs. Frank, Mr. Lyon Mr. Bernard, Mrs. Payne, Ms. Dupuis, Mrs. Cheney, Ms. Cheney, Mr. O’Keefe, Mr. Studer, Mr. Talbot, Mr. Sabin, Atty. Fisher, Mr. Harris, Mr./Mrs. Perrin, Residents

PUBLIC HEARINGS

Washington Partners, LLC./108 New Milford Turnpike/#IW-08-57/9 Lot Affordable Housing Subdivision

Mr. Bedini called the public hearing to order at 5:00 p.m. and seated Members Bedini, Hill, LaMuniere, and Wadelon and Alternate Bohan. Mrs. J. Hill read the legal notice published in the Waterbury Republican on January 2 and January 11, 2009. Mr. Bedini referred to the list of 24 documents in the file.

Mr. George, engineer, reviewed the map, “Overall Site Plan,” by CCA, revised to 8/28/08. He reviewed the proposal for 9 lots, three of them affordable, on the 34.04 acre parcel. He noted the location of the property on Flirtation Avenue and New Milford Turnpike and pointed out the various natural features including the wetland corridor. He proposed a 983 ft. long paved road off Rt. 202 at the existing curb cut. He noted this entrance currently has a 42” RCP culvert, but proposed a clear span open bottom bridge structure to replace it. He noted the proposed bridge was under review by the DOT; a permit is needed due to the size of the watershed and encroachment in the state ROW. He said he had received the 1/6/09 review by Mr. Sanford of Milone and MacBroom and would respond to it in a positive manner.

Mr. George stated that there were 9.6 acres of wetlands, that 99% of them were located on the east side of the property, and that none would be impacted except for the installation of the walking trail. He noted that the wetlands impacted by the installation of the road crossing were in the state right of way. Grading for some lots, including #1 and #9, grading for the driveway to lot #7, and the stormwater management system were activities proposed within the regulated area. Mr. George also made the following points: 1) the Health Dept. had approved the application, 2) the proposed 11.9 acres of open space was made up mostly of wetlands, and 3) the conservation easement language had not yet been drafted.

Mr. George discussed the stormwater management system. He said the majority of the runoff would flow from the driveways to the proposed road, which would have no curbs, then to grassed swales along the roadside, and eventually to a sediment/detention pond where it would be treated before flowing into the wetlands. The drainage system was designed to handle a 25 year storm event and the detention pond and culvert a 100 year storm. The roof runoff from the houses would not flow into the drainage system, but would collect in rain gardens on lots #3, #4, #6, #7, #8, and #9. The planting plans for both the rain gardens and detention pond were included in the plans. Mr. George stated the rain gardens would have a 1” rainfall capacity and any overflow would sheet flow from them. He said he would provide details. Mr. George stated that both the velocity and volume of runoff from the site would be reduced post development. He noted that a water diversion permit was required from the state

DEP. Mr. LaMuniere noted there were areas of steep grades and pointed out the need for adequate protection from surface water flow during bad storms. Milone and MacBroom will take another look at the plans.

Mr. George said that Milone and MacBroom had requested a revision to the boundary line for lot #8. He agreed to straighten it to provide a greater buffer from the wetlands and said he would provide more details at a future meeting. He added that other comments from Milone and MacBroom would also be covered, including 1) the soil scientist would sign the plans, 2) removal of invasive species would be addressed, 3) the addition of some catch basins would be considered for handling runoff during periods when snow might block the flow to the swales, and 4) more erosion controls would be provided.

Atty. Strub presented a tree survey, which showed the trees to be removed and those that would remain. He noted that the Subdivision Regulations require street trees to be planted every 50 ft. along the proposed road and said this would be done.

The proposed bridge crossing was discussed. Mr. George said he would submit a 10 scale detail. The structure will be 20 feet wide with 14 ft. wide shoulders on each side.

Mr. LaMuniere was concerned that the proposed 15" culvert leading to the detention basin at the bottom of the road was not sized large enough to handle the runoff. Mr. George stated there would not be that much runoff, the swales had been designed to handle it, and the culvert could accommodate a 25 year storm. Mr. LaMuniere noted there had been several larger storm events recently. Mr. George responded that the detention basin was designed for a 100 year storm and noted that if the Commission required engineering for a larger storm, it would set an expensive precedent. Mr. Bedini said he would ask Milone and MacBroom to specifically address this issue.

Mr. Lord, soil scientist, briefly described his 10/10/08 wetlands impact evaluation report, which described the three wetlands areas on site and their functions. He stated the project as designed would not impact their existing characteristics.

Mrs. D. Hill asked Mr. Lord if he had used Mr. McNamara's wetlands boundaries. Mr. Lord said he had, but had not confirmed them, except for those closest to the stormwater management system.

Mr. LaMuniere asked what Mr. Lord thought about Milone and MacBroom's recommendations for the removal of invasives. Mr. Lord agreed that knotweed, phragmites, multiflora rose, and loosestrife should be controlled as they can quickly take over disturbed areas. He said part of the stormwater management system was a 3 year monitoring plan to ensure the proper vegetative cover was established. He noted the vegetation proposed for the detention pond area was selected for its ability to remove contaminants. He said that Milone and MacBroom asked that planting area B be expanded and said this would be considered.

Mr. Sanford, Wetland Scientist, from Milone and MacBroom, noted he had been hired by the Commission to evaluate the potential impact of the proposed development to the natural resources on site, particularly the wetlands and watercourses. He said he found the applicant had made a good faith effort to preserve the function of the wetlands. He also made the following remarks: 1) The proposed open arch system for crossing the wetlands was an improvement over the existing conditions because it would improve the habitat and restore the natural stream bottom. 2) The proposed stormwater management system implements two of the newest and best ways to handle runoff; a) rain gardens and b) a wet bottom stormwater basin planted with native wetlands species. 3) Invasive species are a general problem on site, but his main concern was only that they do not spread to the wet bottom basin. 4) The proposed swales were appropriate, but should be used in combination with other stormwater management control measures due to the steep slopes. He noted he had asked the applicant to consider raising the crown of the road and installing leak-offs. 5) He noted the typical design standard was a 25

year storm, but said considering the Commission's concerns, he would ask his engineer to review this. 6) Shifting the lot line for lot #8 would provide an extra buffer for the wetlands. He also recommended a conservation easement in lots #1, #7, #8, and #9. 7) Details are needed for the construction of the walking trail so that this activity can be reviewed. 8) A list of general comments had been provided in his report and he will wait until they are addressed by the applicant before commenting further.

Mr. Bedini noted there are three lots proposed above the road in a steep area and he asked that the consulting engineer check to make sure the runoff from these lots could be adequately handled by the proposed swales. Mr. Sanford said that diversion berms, sediment traps, and water bars would all be considered by CCA. Mr. Bedini also asked the consulting engineer to look into the driveway within 50 feet of the wetland "finger" and whether the proposed swales and culverts were adequate.

Mr. LaMuniere asked for details about the stormwater management plans in the vicinity of lot #6. Mr. George described the proposed swales and catch basins and said details of the proposed spreaders that would direct sheet flow to the wetlands had been provided.

Mr. Sanford informed the Commission that it was important not to deprive the wetlands of all surface runoff and that he had asked for a plan for the removal of all junk from the wet meadow.

Public comment was taken.

Mrs. Payne, Conservation Comm. chairman, asked how many acres were contained in the conservation easement area. Mr. George said this had not yet been finalized.

Mrs. Frank, Conservation Comm., asked if it would be possible to limit the size of the lawns for each of the proposed lots and whether the proposed houses would be built on platforms or into the hillside. Mr. George said the houses would be constructed with the least amount of regrading possible and would possibly have walk-out basements. He noted there was a steep slope and that there would be significant cuts on lots #4, #5, and #6. Mr. George said the developer had no control over the lawns future owners might install and suggested the Commission could put restrictions on the lots. Mr. Bedini stated the Commission has no jurisdiction unless the activity proposed is "adjacent" to wetlands. Mr. LaMuniere asked if the limit of construction envelope was indicated on the plan and Mr. George said it was. Mr. LaMuniere noted the construction envelope was key to protecting the natural vegetation and forest. Mr. George responded that 6 of the 9 proposed houses would be located in the existing open field. Mr. LaMuniere asked if the amount of earth to be removed for each house had been calculated. Mr. George said it had not.

Mr. Bernard, adjoining property owner, raised the following points, which he detailed in the 1/14/09 letter he submitted to the Commission. 1) It is almost always wet in the location of the proposed house site on lot #3. 2) There is a proposed septic system upgrade of the spring that flows from the vicinity of lot #1 towards Schwab Road and Rt. 202 and drinking water wells on adjoining properties. Will the output of the spring or these wells be impacted? 3) He pointed out a wild life trail through the property and asked if any thought had been given to getting the animals safely across the proposed road. 4) He noted how steep the driveways to lots #1, #2, and #3 were and said he imagined they would have maintenance problems. He asked if drainage from these driveways would affect the properties along Schwab Road and what recourse these property owners would have if either their drinking water or road was impacted. 5) He noted his concerned about the leaching field discharge from lot #2. 6) He noted there were feasible and prudent alternatives for the lot #7 driveway. 7) He said he was concerned about the preservation of the viewscape from Rt. 202, saying that with the proposed house locations and the "enormous" amount of cuts and fills proposed the site would not look like natural open space. 8) Although he applauded the improvements that would result from the installation of the arched bridge crossing, he thought an access from Flirtation Avenue that would hug the contours and access the lots from above would have less impact on the wetlands. 9) He noted the pond is maintained by beavers and

its height varies depending on their activity and he asked what provisions had been made regarding the beavers. 10) He noted a maintenance plan beyond three years is needed for the drainage facilities. He asked who would monitor and remove sediment and who would monitor the open space.

Mr. George noted that the proposed septic systems were approx. 125 feet from wetlands and had been approved by the Health Dept. Mr. Bedini asked if the Health Dept. had identified the water sources on the adjoining lots. Mr. George said it had, and that the Health Dept. would later approve specific systems for each of the lots.

Ms. Cheney submitted photos taken during recent storms of the wetland areas near the proposed road and a letter dated 1/14/09. She noted the stream near Rt. 202 is never dry. She was concerned that runoff from the steep grades would pollute her well. She pointed out two areas on her property where there were already erosion problems from runoff from the applicant's property and the location of a spring that was not indicated on the plans.

Mr. Bernard stated there were two springs that were not shown on the plans.

Ms. Cheney voiced her concerns about the preservation of the existing tree line and noise pollution. She also asked for a traffic study.

Mr. Perrin noted there was a spring with outflow in the vicinity of lot #7 that did not appear to have been addressed. He thought it flowed through the proposed house site on lot #7. Mr. George said he would have the soil scientist investigate.

Mr. O'Keefe opposed the application. He did not think access should be from Flirtation Avenue due to the wetlands in that area. He noted the section of the property off Flirtation Ave. is always wet, especially since it now gets more runoff due to the recent clearing across the street.

Mr. LaMunier asked what the driveway grades were for lots #1, #2, and #3. Mr. George said they were 15%, the maximum allowed, and that paving is recommended for steep driveways.

Mr. George stated that a Town road is proposed.

Mr. Bedini noted the public hearing would be continued and asked that additional questions and/or concerns be submitted in writing as soon as possible. He asked the applicant to submit the information requested a week before the next session of the hearing, which was scheduled for 5:00 p.m. on February 11, 2009.

Mr. LaMunier asked for an existing site conditions map and Mr. George said he would submit one.

Mrs. J. Hill noted the Commission usually asks the applicant for a written review of feasible and prudent alternatives.

At 6:37 p.m. Mr. Bedini continued the hearing to 5:00 p.m. on 2/11/09 in the Land Use Meeting Room, Bryan Memorial Town Hall.

Revision of the Inland Wetlands and Watercourse Regulations of the Town of Washington, Ct.

Mr. Bedini reconvened the public hearing at 6:38 p.m. and seated Members Bedini, Hill, LaMunier, and Waderton and Alternate Bohan. Mr. Bedini noted the Commission had worked for many months on the revisions and asked if there were any comments about the final draft dated 1/12/09. There were no questions or comments from the public or from the commissioners. Mr. Bedini closed the hearing at 7:40 p.m.

These Public Hearings were 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 7:07 p.m. and seated Members Bedini, Hill, LaMuniere, and Wadelton and Alternate Bohan.

MOTION: To add subsequent business not already posted on the agenda: Other Business: First Washington Capital/ 89 Lower Church Hill Road and to take up this matter upon the arrival of Atty. Fisher. By Mr. Bedini, seconded by Mrs. Hill, and passed 5-0.

Consideration of the Minutes

The 12/10/08 Public Hearing - Regular Meeting minutes were accepted as corrected. The spelling of intervener was corrected throughout.

MOTION: To accept the 12/10/08 Regular Meeting minutes as amended. By Mr. Bedini, seconded by Mrs. Hill, and passed 5-0.

MOTION: To accept the 223 Litchfield Turnpike, LLC. site inspection minutes as written. By Mr. Bedini, seconded by Mr. Wadelton, and passed 5-0.

Site Inspection Report below, at end.

Pending Applications

Washington Partners, LLC./108 New Milford Turnpike/#IW-08-57/9 Lot Affordable Housing Subdivision:

The hearing was continued to 5:00 p.m. on February 11, 2009 in the Land Use Meeting Room.

223 Litchfield Turnpike, LLC./223 Litchfield Turnpike/#IW-08-61/ Septic Repair, Site Improvements:

Mr. Neff, engineer, presented his map, "Septic System Repair Plan," revised to 1/14/09, which showed a slightly different parking layout and the dumpster now located directly behind the building for better accessibility. There was no change to the septic system itself. He also submitted an erosion control plan revised to 1/13/09, which included a landscaping plan as part of the construction sequence. Mr. Bedini asked about the double pipe under the driveway entrance. Mr. Neff said it would be installed a few feet below the surface with either iron or steel pipe sleeving for protection. The proposed "tortuous" pipe route was discussed at length. Mr. Bedini asked if installing the pipe in a straighter route through the narrowest section of wetlands had been considered. He noted this area was level and that the wetlands had been grassed. Mr. Neff said that route would work and would cut the pipe required by two thirds, but noted he had proposed the indirect route in order to avoid the wetlands soils. It was noted a trench 8 inches wide and 2 feet deep would be required for the pipe installation. Mrs. D. Hill was uncomfortable with the direct route because the Commission usually avoids disturbance to wetlands whenever possible and she was sure this area had been wetlands before it had been filled for the construction of the building. Mr. Bedini recommended the Commission be practical where it can, noting he supported the direct route because the area was flat and was already lawn, the trench would be dug by hand, and with this route there would be no concerns about traffic on top of the pipe. Mr. LaMuniere did not think the Commission would be setting a precedent as the disturbance of wetlands was justified in this case. Mr. Bedini agreed, saying it was important to judge each application on its own. Mr. Sabin said the proposed landscaping would indicate the location of the pipe. It was the consensus that the shorter, more direct route would be permitted and Mr. Neff said he would revise the map to show it. Mr. Sabin described his "Landscaping Plan," dated 1/6/09. This included planted wetlands buffers on three sides and the return of the area in the middle of the property to a wet meadow to be mowed once a year. Invasives would be removed by hand and herbicides used if they resurge after two growing seasons.

New Applications

Harris/258 New Milford Turnpike/#IW-09-01/Building Renovation, Landscaping, Sign:

Mr. Harris and his architect, Mr. Studer, presented the map, "Site Plan," by MacMillan Architects, revised to 1/14/09. He said his renovations could be accomplished with no further digging and no impact to the river. He noted the location of a 10' X 12' concrete pad and said he proposed to put a utility/storage shed on it. He pointed out the proposed lightposts and said a small hand dug trench would be needed to connect them. The existing fence will be repaired and a fence installed to screen the existing propane tank. Other proposed activities include 1) building a portico roof in the front, 2) moving the sign, 3) repairing the existing rear deck, cutting back on the rear roof line and replacing deck boards with composite lumber, and 4) planting native non invasive plants. Mr. Bedini asked for an exact plan that showed the specific screening for the propane tank and the exact location, depth, and width of the proposed trenching.

Communications

Kessler/103-105 West Mountain Road/Request to Amend Condition of Approval:

Mr. Kessler's 1/10/09 email requesting a decrease in the number of monitoring inspections required during the winter months was discussed with Mr. Neff, engineer. The map, "Final Site Development Plan," by Mr. Neff, dated 6/15/07 was reviewed and the terms in the following motion agreed upon. MOTION: Regarding Kessler/103-105 West Mountain Road/ #IW-06-05: To modify condition #2 to 1) allow Mr. Neff to inspect the site once per month during January, February, and March, 2) allow the WEO to supplement these inspections during unusual weather events, and 3) request that Mr. Neff resume inspections once per week as of April 1. By Mrs. Hill, seconded by Mr. LaMuniere, and passed 5-0.

Other Business

First Washington Capital, LLC./89 Lower Church Hill Road:

Atty. Fisher, representing the applicant, and Mr. Sanford, consultant from Milone and MacBroom on behalf of the Commission, were present. Mr. Bedini noted the question to be answered was whether the Commission had jurisdiction over the proposed plans to construct a house, swimming pool, and detached apartment. Atty. Fisher said he had contacted Mr. White, Steep Rock, and Mrs. Payne, Conservation Commission, and learned their only concern was the pool location. He said he would urge his client to move it further from the edge of the cliff. He said he did not think the Commission had jurisdiction in this case because there were no regulated activities proposed within 300 feet of wetlands. He said there were seeps on the property, but he did not think they were under the Commission's jurisdiction. Mr. Sanford said he had reviewed the file and needed more information before he could determine whether the Commission had jurisdiction. He asked for a more detailed site plan showing the proposed development lines, septic system and stockpile locations, proposed grading, stormwater management system, and erosion and sedimentation controls. He said once this had been submitted, if it was determined there was no potential impact to wetlands or watercourses, an application would not be required. Mr. LaMuniere expressed his concern that blasting would compact the rock and impact the seeps and the "incredible" fauna near them. Atty. Fisher asked whether underground seeps were regulated watercourses under the Commission's jurisdiction. Mr. Sanford replied that unless a soil scientist determines they are watercourses, they aren't regulated by definition. Mr. Bedini noted that because this has been an issue that other commissions and the public have expressed concerns about, he would like a geologist or hydrologist to review the matter and respond. Mr. LaMuniere said he would like Atty. Zizka's opinion about the seeps. Mr. Bedini said he would write to Atty. Zizka and to Milone and MacBroom once the detailed plan was submitted. He asked that all communications be written and submitted to the file.

MOTION: To enter Executive Session at 8:30 p.m. to discuss the following appeals and pending litigation: Andersson, Howard, Brown, and Federer. By Mrs. Hill, seconded by Mr. Bedini, and passed

5-0.

MOTION: To end Executive Session at 8:53 p.m. By Mr. Bedini, seconded by Mrs. Hill, and passed 5-0.

Enforcement

The following matters were briefly noted or discussed:

*Slaymaker/17 Sunset Lane:

The house is currently under construction.

*Rubler/240 Wykeham Road:

The Commission is waiting for an application for the service driveway. Mr. Ajello noted he had refused to release the performance bond until an application for the second driveway was received.

*Liljequist/Tinker Hill Road:

Mr. Liljequist paid his fine. This item will be taken off the agenda.

*Lodsin/78 Litchfield Turnpike:

A notice of violation has been filed on the Land Records. It was noted that Mr. Lodsin had no funds for restoration and the wetlands were slowly restoring themselves. Mr. Ajello said the Army Corps of Engineers would not push for the removal of the vehicles from the wetlands. It was the consensus to take no further action at this time.

*Rosen/304 Nettleton Hollow Road:

Mr. LaMunier recommended that the Rosens be required to submit an application to correct a violation. Mrs. D. Hill agreed. Mr. Bedini noted this was a situation where the Commission would like an application to correct the violation so that a consultant could be hired at the applicant's expense to make recommendations for mitigation. Since there has been no communication from the Army Corps of Engineers, this file will be referred to Atty. Zizka who will advise the Commission on how to proceed. Mr. Ajello noted that the original enforcement order issued to the Rosens asked them to restore the watercourse to its original condition. Mr. Bedini asked Mr. Ajello to write to the Army Corps. to advise it that the Commission is preparing for litigation and to request any information it has that would be helpful for the Commission's case.

*DiBenedetto/212-214 Calhoun Street:

Nothing more will occur on site until the spring.

Communications

Mr. Ajello circulated a letter from the Kent ZBA regarding proposed work within 100 feet of Lake Waramaug at 72 Lake Waramaug Road, the latest Habitat, and an article on cattails.

Revision of the Regulations:

Mr. LaMunier briefly reviewed the most recent revisions before the vote was taken. Mr. Bohan asked when as-builts were required. Mr. Bedini said the Commission would try to use them more in the future, but first would establish a system of monitoring and enforcement with the use of start and finish cards, taking photos of successfully completed work, and signing off and closing out files upon the completion of projects in compliance with their permits.

MOTION: To approve the revision of the Inland Wetlands and Watercourses Regulations of the Town of Washington, Ct., draft dated 1/12/09 as revised to 1/14/09. By Mr. LaMunier, seconded by Mrs. Hill, and passed 5-0

These revised Regulations will be effective on February 3, 2009.

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

Mr. Bedini adjourned the Meeting at 9:54 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,
Janet M. Hill
Land Use Coordinator

**Town of Washington
Inland Wetlands Commission
Site Inspection Report**

I. APPLICATION #: 1W-08-61

INSPECTION DATE: Dec 16, 08

TIME: 3 - 3:25 PM

II. NAME: 223 Litchfield Tpke.LLC

III. ADDRESS: 223 Litchfield Tpke., New Preston, CT

IV. REASON FOR APPLICATION: Septic repair, Site improvement

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

OTHERS PRESENT: EO Mike Ajello, Agent/Engineer Brian Neff

VI OBSERVATIONS: Commission members and others present walked the small, 1.2 acre property where the former restaurant with apartment above is being gutted and renovated for use as a restaurant with office/storage space above. This building has wetlands on both sides and in the rear; those in the rear lie between the structure and the upland review area adjacent to Wilbur Road where new septic fields will be installed to accept effluent from a new concrete pump chamber near the rear of the building. Wetlands on the East contained open water with shrubs and small trees, those on the West were covered with phragmites and multiflora rose, and those in the rear have been maintained as lawn. A small existing shed will be rebuilt close to the rear of the renovated main building.

Mr. Neff's Septic System Repair Plan, 11/25/08 and Soil Erosion Sediment Control Plan, 12/1/08 show a compact area of disturbance and no activity actually in wetlands although, of necessity, very close to them.

BY: Dorothy G. Hill

DATE: 12/29/08