

February 11, 2009

Public Hearing – Regular Meeting

5:00 p.m., Land Use Meeting Room

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

ALTERNATE PRESENT: Mr. Bohan

STAFF PRESENT: Mr. Ajello, Mrs. Hill

ALSO PRESENT: Ms. Cheney, Mr. Charles, Mr. Sanford, Mr. George, Atty. Strub, Mr. Bernard, Mrs. Branson, Mr. Neff, Mr. Perrin, Mr. Lord, Press

PUBLIC HEARING

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

Mr. Bedini reconvened the public hearing at 5:01 p.m. and seated Members Bedini, Hill, LaMuniere, and Wadelton and Alternate Bohan.

Mr. George, applicant's engineer, submitted his letter dated 2/6/09, which responded to all thirteen points in Milone and MacBroom's 2/10/09 review. He also noted that at the last meeting access to the lots from Flirtation Avenue had been suggested as a feasible and prudent alternative. However, he explained he did not think it was prudent because it would require 10 ft. of fill, more of the wetlands would be filled than would be filled for the Rt. 202 access, and a 6 to 10 ft. high retaining wall would be required.

The Rt. 202 access was discussed. Mr. George stated that the DOT requested the bridge span be reduced to 12 feet, which would reduce the open bottom from 6' X 20' to 6' by 12', but would not reduce the width of the roadway at the entrance. He said the state was concerned about both maintenance and liability for the crossing in the state right of way.

Mr. Lord, soil scientist, advised the Commission that he had revised the planting plan in response to comments from Milone and MacBroom. The revisions mainly addressed the removal and monitoring of Japanese knotweed and the planting list for the proposed rain gardens. He also responded to several of the questions raised at the previous session of the hearing. 1) He reinspected lot #3, but did not find additional wetlands or evidence of any concentrated flows or channels. 2) He also reinspected lot #7, but did not find additional wetlands, intermittent watercourses or high ground water. He submitted photos of the site conditions on these lots.

Mr. LaMuniere pointed out that the site development plan did not include the limit of disturbance line. He said this was important because the land was steep and would require cuts and fills. He also noted that although the applicant had stated that most of the houses would be located in existing fields, the site development plan showed six houses in the forested area. He asked how many trees would be cut, and for a construction envelope and limit of disturbance to be shown for each lot. Due to the steepness of the proposed road in the vicinity of lots #1-#3, Mr. LaMuniere asked for confirmation that the proposed drainage plans were adequate.

Mr. George stated the limit of disturbance and construction envelopes were already on the plan, but Mr. Bedini asked that they be more clearly noted and labeled for each lot and for both forested and open

areas.

Mr. Sanford, Commission's consulting engineer, detailed revisions that had been requested by Milone and MacBroom and said the applicant had provided additional information to address all of the concerns raised in his 2/10/09 review. In particular, he noted conservation easement areas had been added along lots #1, #7, #8, and #9, that the boundary line for lot #8 had been shifted to the west to move it further from the wetlands, and the driveways to lots #6 and #7 had been combined and moved further from the wetlands to provide a better wetlands buffer area. He agreed with Mr. George that an access from Flirtation Avenue would have a greater impact on the wetlands than the proposed Rt. 202 access, because the forested wetlands that feed the main wetlands would be impacted. He thought the proposed crossing was more "environmentally friendly."

Mr. LaMuniere noted that the proposed pipe under the main road running to the detention basin was 15", but the outlet pipe from the basin was 24". He was concerned that the outlet pipe was larger than the inlet pipe and asked if this could result in the siphoning of water from the basin. Mr. George responded that the pipe under the road was 18" and the 24" pipe had been sized for a 100 year storm. Mr. Bedini noted the proposed walking trail was very close to the wetlands and he asked if it was necessary. Mr. George thought it would be an amenity for the subdivision and noted it would be constructed entirely by hand.

Mr. LaMuniere noted how steep the driveway to lot #3 was and that drainage was proposed on both its sides and so asked for a confirmation that the design was adequate. Mr. George stated that since the last meeting he had added catch basins, had "mounded," the driveway, and had added water bars to the erosion control plan. He described how the yard drains, catch basins, and swales would handle the stormwater runoff. He stated that two catch basins had also been added along the roadway.

Mr. Bedini asked Mr. George if he had reviewed the proposed septic system located above a spring on adjacent Schwab Road property. Mr. George said the septic system was more than 150 ft. further from the water source than is required by the Health code. Mr. Bedini noted that a neighbor had also reported a spring on lot #7. Mr. George said Mr. Lord had investigated and had not found a spring there.

Public comments were taken.

Mr. Bernard, Schwab Road, asked if the hearing would be continued so that the public would have an opportunity to review the revised plans. Mr. Bedini said it would and he also noted there were 15 additional documents that had been submitted since the last meeting.

Mr. Charles asked how many acres of open space were proposed. Mr. George said 12 acres; 9 consisting of wetlands and 3 acres of upland soils. Mr. Charles asked how much of the 3 upland acres was not in a regulated area and Mr. George responded that only a small portion was not regulated. Mr. Charles noted that the Planning and Conservation Commissions usually do not like the required subdivision open space to consist of wetlands, which are already protected under the Regulations. Mr. Charles asked who would own the open space. Atty. Strub said this had not yet been determined.

Mr. Charles asked if there was an entity to receive the affordable units. Atty. Strub noted that this matter was not under the Inland Wetland Commission's jurisdiction.

Mr. Charles asked if all infrastructure would be installed before the lots were put on the market. Mr. George stated that lots #1, #2, and #5 would be affordable and that decisions about the installation of the infrastructure would be up to the Planning Commission. He noted that the road would be constructed to rough grade and the detention basin installed early in the process, but would not be completed until after all of the construction activities were finished so that it would not be damaged by construction equipment.

Mrs. Branson asked if the proposed open space and the conservation easements discussed were the same areas or if Milone and MacBroom had proposed additional easement areas. Atty. Strub explained the open space had been proposed by the applicant in the original plan, while the conservation easements had been recommended by Milone and MacBroom and included on the revised plans. Mrs. Branson noted that if the proposed trail was located in open space accepted by a non profit entity, it would be open to the public. Atty. Strub said this would not necessarily be so as a private land trust could hold land not open to the public. Mrs. Branson thought it would be good to have the trail open to the public, but cautioned that a public access easement over the open space would be necessary.

Ms. Cheney asked why so many large trees had to be cut at the entrance of the roadway and suggested that Mrs. Cheney should be shown some consideration because their removal would impact her privacy. Mr. George stated that trees would be planted along the edge of the road and said maybe some could also be planted on the adjoining property. Ms. Cheney asked if the retaining wall could be moved closed to the road in order to preserve some of the existing mature trees. She noted that when the trees are cut, the existing stonewall would collapse. She was concerned that the Commission did not want the wetlands along Flirtation Avenue to be impacted, but would consider wetlands impacts near her mother's property and Rt. 202. Mr. George stated there would be more impacts with a Flirtation Avenue access. Mr. Lord explained there was an existing crossing off Rt. 202 and so the wetlands impacts there were not totally new impacts. He noted that the Commission could not legally approve the proposal if there was an alternative that would result in less impact to the wetlands. Ms. Cheney asked if the proposed retaining wall could be rotated away from the stonewall to preserve it and some of the trees. Mr. George did not think this would work due to the cut and fill requirements. Ms. Cheney asked if the project were downsized if the road could then be moved. Mr. George said the best location for the road had been proposed

Mr. Ajello asked if the developer had to remove the existing trees that were farther than 10 ft. from the traveled portion of the proposed road. Mr. George said, yes, because there were grading issues at the corner and there had to be room for the retaining wall. He did say, however, that if the retaining wall was made higher and was rotated, perhaps two or three trees could be saved. Atty. Strub said the applicant would investigate and would try to come up with some accommodations to offset the impact of the tree removal.

Ms. Cheney voiced her concern that drainage and the proposed septic system would impact her mother's Schwab Road property. She said there was already so much runoff from this property flowing onto her mother's that she had had to install a ditch to divert it and a curtain drain around the garage. She also did not want runoff to impact the nearby spring. Mr. George said the proposed stormwater drainage system would cut off some of the runoff and that there would be no increase in the flow onto her property.

Mr. Bernard did not think that under the Health code requirements the protection of open springs could be compared to the protection of sanitary sealed wells drilled in bedrock. So he thought it was erroneous to say the water quality of the down slope spring or nearby shallow wells would not be impacted by the proposed septic system. Mr. George stated the Health Dept. requirements are the same for wells and springs. Mr. Ajello said he had consulted with the Town Sanitarian who confirmed Mr. George's statements. He recommended that Mrs. Cheney do some baseline testing of the water on her property so that she would have proof if her water quality was affected in the future.

Mr. Ajello thought the proposed walking trail would attract ATVs and so recommended a barrier be installed to prevent them from driving on it.

Atty. Strub submitted a request for an extension of the public hearing to February 25, 2009.

6:23 p.m.

Mr. Bedini continued the public hearing to 5:00 p.m. on 2/25/09 in the Land Use Meeting Room, Bryan Memorial Town Hall.

This public hearing was recorded on tape. The tape is on file in the LU Office, Bryan Memorial Town Hall, Washington Depot, Ct.

REGULAR MEETING

Mr. Bedini called the Regular Meeting to order at 7:03 p.m. and seated Members Bedini, Hill, LaMuniere, and Wadelton and Alternate Bohan.

MOTION: To include subsequent business not already posted on the Agenda: Administrative Business: B. Bonds. By Mr. Bedini, seconded by Mrs. Hill, and passed 5-0.

Consideration of the Minutes

The 2/4/09 Regular Meeting minutes were accepted as corrected.

Page 4: Motion for #IW-07-33: Condition should be: there shall be a machine used only to move the rocks; not for any other work.

Page 4: DiBenedetto: line 2: Insert "to" before "begin."

Page 4: DiBenedetto: line 2: Letter was received on 1/28/09.

Page 6: Education: Should be "CAWS" not "CACIWC."

MOTION: To accept the 2/4/09 Regular Meeting minutes as corrected. By Mr. Bedini, seconded by Mrs. Hill, and passed 5-0.

Pending Application

Bennett/80 East Shore Road/#IW-09-02/Addition to Dwelling:

Mr. Neff, engineer, noted that at the last meeting the Commission had been concerned about protecting the catch basin next to the parking area. In response, he revised the plan to show the catch basin grates wrapped in filter fabric to catch silt and sediments and said that this and another basin south of the parking area would be inspected and maintained on a weekly basis during construction. The map, "Soil Erosion and Sediment Control Plan," by Mr. Neff, revised to 2/10/09 was reviewed. It was noted there would be no site disturbance and that the ZBA would also have to approve the plan.

MOTION: To approve Application #IW-09-02 submitted by Ms. Bennett for a second story addition to the existing dwelling at 80 East Shore Road per the plans, "Soil Erosion and Sediment Control Plan," by Mr. Neff, revised to 2/10/09. By Mr. Bedini, seconded by Mr. LaMuniere, and passed 5-0.

MOTION: To amend approval of Application #IW-09-02 submitted by Ms. Bennett for a second story addition at 80 East Shore Road to include the duration of the permit shall be 2 years. By Mr. Bedini, seconded by Mrs. Hill, passed 5-0.

Enforcement

Andersson/35-45 Gunn Hill Road:

The final maps had not been submitted. It was hoped that the settlement could be discussed at the next meeting.

Cornell/Whittlesey Road:

Mr. Ajello reported that trees had been cut down.

DiBenedetto/212-214 Calhoun Street:

Mr. Ajello reported that logs were being skidded off the property while the ground was frozen and that no work had been done in the "sensitive area."

Kessler/West Mountain Road:

The work on the guest house is almost complete. Mr. Ajello was asked to make sure the work done was per the approved permit.

Slaymaker/17 Sunset Lane:

It was noted the Commission still holds a bond for the required planting.

Wright/59 Scofield Hill Road:

Mr. Ajello said the planting should be more evenly distributed on the hillside to stabilize it.

Administrative Business

“The Applicant’s Guide to Completing and Processing an Application for an Inland Wetlands Permit”: Mrs. Hill circulated copies of this brochure and recommended that the commissioners review it before deciding to remove it from the Commission’s web page.

Executive Session:

There was no business to discuss in executive session.

Bonds:

Mr. Ajello said he had not discussed bonds and consulting fees with the Town Treasurer since the last meeting. He circulated a memo, “Summary of Returnable Bonds,” which listed the bonds he recommended be returned. Each was reviewed. It was the consensus that all should be returned with the exception of the bond held for the Montessori School. The Commission thought it should carefully review whether the work had been completed per the approved permit before the bond is released. Mr. Bedini asked that the records be checked again to make sure the bond amount listed for Montessori is accurate.

MOTION: To return the unused portion of the following performance bonds and consulting fees: 1) Berger/392 Nettleton Hollow Road/8/24/07, 2) Abella/44 Scofield Hill Road/5/31/07, 3) Lecher/47 West Shore Road/10/5/07, 4) Lloyd/149 Whittlesey Road/7/12/06, 5) Kleinberg/181 West Shore Road/4/5/06, and 6) Wykeham Rise, LLC./101 Wykeham Road/6/13/08. By Mr. Bedini, seconded by Mrs. Hill, and passed 5-0.

Also, procedures for record keeping of bonds and consulting fees were discussed. Mr. Bedini recommended that Mr. Ajello establish a spread sheet system for tracking bonds that would be used by both the Land Use Dept. and the Treasurer, that Zoning and Inland Wetlands fees and bonds be tracked separately, that a monthly report be submitted for the Commission’s review, and that a form letter be drafted to accompany the bonds and fees returned to property owners and contractors.

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

Mr. Bedini adjourned the Meeting at 7:54 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,
Janet M. Hill
Land Use Administrator