

May 28, 2008

MEMBERS PRESENT: Mr. Bedini, Mrs. Hill, Mr. LaMunier, Mr. Picton, Mr. Thomson

ALTERNATES ABSENT: Mr. Bohan, Mr. Wadelton

STAFF PRESENT: Mr. Ajello, Mrs. Hill

ALSO PRESENT: Mr. Gambino, Mr. Neff, Mrs. Peckerman, Mrs. Osborne, Mr. Charles, Mrs. Sabin, Mr. Cassari, Mr. Kistela, Mr. Dunlap, Mr. Titman, Mrs. Federer, Atty. Fisher, Mr. Klauer, Mr. Szymanski, Residents

Mr. Picton called the Meeting to order at 7:02 p.m. and seated Members Bedini, Hill, LaMunier, Picton, and Thomson.

MOTION: To include the following subsequent business not already posted on the agenda: New Applications: D. Thorn/228 West Shore Road/House Addition and Renovation, E. Lancaster/244 West Shore Road/Patio, Abandon Cess Pool, F. Town of Washington/Couch Road/Road Drainage Improvements, Communications: 5/20/08 letter from Woodbury Inland Wetlands Agency. By Mr. Bedini, seconded by Mrs. Hill, and passed 5-0

Consideration of the Minutes

The 5/14/08 Regular Meeting Minutes were accepted as corrected.

Page 2: Under Lancaster: 7th line: should be: "dock nor float..."

Under Pinover: 9th line: insert after "adjacent property:" "also owned by Mrs. Pinover."

Page 3: At end of top paragraph: insert after "herbicide:" ", pesticide, or fungicide...."

Under Douglas: 10th line: insert after "irrigation:" "use...."

Page 8: Under Gray-Dunlap: 14th line: change: "will be" to "was."

18th line: insert after "filled:" "beyond the driveway shoulders."

MOTION: To accept the 5/14/08 Regular Meeting minutes as corrected. By Mr. Bedini, seconded by Mrs. Hill, and passed 5-0.

The 5/21/08 Jackson-Karger site inspection minutes were accepted as corrected. In the third line in the second paragraph, "patio area" should be inserted after "hot tub."

MOTION: To accept the 5/21/08 Jackson-Karger site inspection minutes as corrected. By Mr. Bedini, seconded by Mr. Thomson, and passed 5-0.

Pending Applications

Douglas/69 Painter Ridge Road/#IW-08-19/Aquatic Weed Control: Photos of the pond were circulated. Mr. Gambino, agent, prepared a program for pond management without chemicals with an appendix options checklist and an information form for property owners, which outlined alternatives to chemical treatment as the Commission had asked him to do at the last meeting. The alternatives included dredging, harvesting, manipulating the water level, providing shade, biological controls, and watershed management. He said he would check off on the checklist those items that would apply for each specific application. He advised the Commission that the DEP sends a booklet on the management of nuisance aquatic vegetation to all applicants and submitted a copy for the file. As the applicant, Mr. Gambino said he reviews all options with each property owner, taking into account both the site and his experience. Mr. Picton noted the Commission prefers pond management rather than chemical

application to control aquatic weeds, but asked whether it would receive applications in time to review them and to recommend alternate methods before the DEP issues its permit. Mr. LaMuniere asked if after receiving input from the Commission, Mr. Gambino would present the Commission's views to each property owner and return with an amended application. Mr. Gambino responded that 1) he was probably the only applicator in Ct. who was presenting alternatives to property owners, 2) the local Inland Wetland Commission has no authority to change a chemical permit granted by the DEP, and 3) he was discussing options with the property owners only as a courtesy to the Commission. He also stated that it would be the Commission, not him, who would decide whether to ask for an alternate management method. Mr. Picton noted that if each property owner was presented with Mr. Gambino's comments and a review and recommendations from Mr. Ajello, the Commission would have accomplished its goal to educate property owners even if it has no authority to override the DEP. Mr. Bedini asked for the comparative cost of dredging a pond vs. applying chemicals to it. Mr. Gambino thought it would be approximately \$10,000 for a dredging and under \$500 for a chemical application. Mr. Thomson said he thought it should be the Commission's responsibility, not Mr. Gambino's, to advise the property owners of alternate management methods. Mr. Picton suggested that the Commission send the results of the analysis to the property owner. Mr. Gambino recommended the process used by Roxbury; if the Commission has a problem with the permit approved by the DEP, the WEO sends a letter to the property owner detailing alternatives. Mr. Picton thanked Mr. Gambino for his efforts to cooperate with the Commission. He outlined the procedure that would be used; Mr. Gambino would prepare his alternative report for the Commission, Mr. Ajello would meet with Mr. Gambino to discuss it and then prepare his own review, and both the Gambino and Ajello reviews would be sent to the property owner and copies placed in each file for future reference.

Mnuchin/218 Nettleton Hollow Road/#IW-08-22/Aquatic Weed Control: Mr. Gambino noted this pond is located in wetlands. Mr. LaMuniere said the application was troublesome due to the species of special concern on the property. Mr. Gambino stated that the Jefferson salamander and box turtle were not in the area where he would apply the chemicals and so the DEP had approved the application. Mr. Thomson agreed, saying that these two species do not breed in ponds with ingresses and egresses so it was not an issue. Mr. Picton said the main issue, then, was to treat the pond when it was not flowing into other bodies of water. Mr. Gambino advised the Commission that the first thing it should have done was to register its concern with the DEP. Mr. Picton thought the Commission should first have something in writing for the record regarding how the treatment would be done so that the Commission would have something on which to base its comments. Mr. Gambino said this was not possible because all of his contact with the DEP is by phone. Mr. Picton said notes from these phone conversations could be submitted. Mr. Gambino urged the Commission to state its concerns to the DEP because it had told him that it had never been contacted by Washington with specific concerns about a chemical aquatic weed control application. Mr. Picton noted that the Commission had sent the DEP letters to express its concern and to inform it that local permits were also required. Mr. Gambino said that was not adequate; the Commission had to comment on the specific treatment proposed for a specific pond and ask the DEP to deny the application. Mrs. D. Hill asked how this would be possible when the Commission does not hear about the DEP applications until after they have been approved. Mr. Picton asked that all of the material requested by the Commission be submitted for the file.

Canal/142 Sabbaday Lane/#IW-08-23/Aquatic Weed Control: Mr. Picton noted this pond is located in the course of a stream and asked if the outflow could be controlled during the proposed chemical application. Mr. Ajello said there was a problem because the outflow was filled with sediment, which had accumulated over the years due to the chemically treated vegetation. Mr. Gambino said he would argue vehemently against the position that aquatic weed control had contributed to the depth of the muck in the pond. He said the Commission's concern must be about plant or animal life, so if the pond level was low so there was no flow from the outlet and the forecast was for dry weather, it would be

OK for the proposed chemical application. Mr. Picton asked that all the material requested by the Commission be submitted for the file. Regarding the application process, Mrs. D. Hill asked Mr. Gambino if he would talk to the owner first, then submit the proposal for the Commission's review and comment, and then apply to the DEP. Mr. Gambino explained that the state did not require him to notify the Commission until application was made to the DEP, at which time he would send a copy of the application to the Commission. Mrs. D. Hill said the Commission does not learn of the applications to the DEP until after they are approved. But Mr. Gambino said that according to the state procedures he had given the Commission in April, he sends in a copy of the DEP application form so that the Commission sees it before DEP approves it. Mr. Ajello said this was so, and that he would then send a letter to the property owner to tell him a local permit is also required, but that usually there was no response by the time the DEP permit had been approved, which gave the Commission no opportunity to comment. Mr. Gambino advised the Commission to authorize the WEO to contact the DEP with concerns as soon as the copy of the DEP application is received. Mr. Picton pointed out that upon receipt of the copy, neither the EO nor the Commission has all of the pertinent information about the pond. Therefore, he thought the process discussed earlier under Douglas should be implemented instead. Mr. Picton asked Mr. Ajello to write to the DEP noting the Commission's concern about the chemical treatment for this pond. Mr. Gambino warned that the suitable time period for treating the pond would soon end. Mr. Gambino asked if he would have to come before the Commission for each pond every year. Mr. Picton noted that his analysis from the previous year would already be in the file and the Commission would ask for a report on the results from the previous year. Mr. Gambino again asked that Mr. Ajello be granted authorization to approve aquatic weed control applications. Mr. Gambino noted the pending application for maintenance of the upstream Peckerman pond and his concern that the Commission would allow it to be pumped out and the sediment filled water would then flow into the Canal pond. Mr. Picton advised him that the Commission routinely stipulates that cloudy water may not be pumped. Mr. Picton again thanked Mr. Gambino for his work and cooperation and asked him to provide further written information about the application process for the next meeting.

Peckerman/162 Sabbaday Lane/#IW-08-24/Pond Maintenance: Mr. Neff, engineer, noted that the sequence of construction states that only clear water shall be pumped from the pond. The map, "Pond Maintenance Plan," by Mr. Neff, dated 5/6/08 was reviewed. He briefly explained that the sediment basin would be cleaned out from the inlet side and the 150 c. yrds. of material spread to the east of the pond. He noted the water level of the pond was already low due to the leak in the standpipe so that no pumping would be required for its replacement. It was noted the silt basin would be dredged to a depth of 4 ft. and that the depth of the pond was 12 feet. Mr. Picton noted that at the last meeting the Commission had encouraged buffering around the pond.

MOTION: To approve Application #IW-08-24 submitted by Mrs. Peckerman for pond maintenance at 162 Sabbaday Lane per the plan, "Pond Maintenance Plan," by Mr. Neff, dated 5/6/08 subject to the following conditions: 1. if pumping is required only clear water shall be discharged, and 2. if the stream flow will be altered in any way, the Canals must be notified. By Mrs. Hill, seconded by Mr. LaMunier, and passed 5-0.

Bol/44 Slaughterhouse Road/#IW-08-25/Addition to House, Relocate Driveway and Garage: Mr. Neff, engineer, presented his map, "Proposed Site Plan," revised to 5/3/08 and explained that demolition of the existing garage and construction of a new garage and stonewalls was proposed. He stated that the work zone and limit of disturbance had been kept as compact as possible. Mr. Picton noted that Mr. Ajello had been concerned about wetlands on the opposite side of the road, but Mr. Ajello said he had reinspected the site and found that the stream was not that close to the road. Mr. Picton asked Mr. Ajello to monitor the work site often to make sure the plan is adhered to because the work area was so tight. Mr. LaMunier asked if the construction sequence was specific enough to address the constraints

on the property. After reviewing it on the "Soil Erosion and Sediment Control Plan," by Mr. Neff, dated 5/5/08 it was determined that it was OK.

MOTION: To approve Application #IW-08-25 submitted by Ms. Bol to relocate the driveway and garage and construct an addition to the dwelling at 44 Slaughterhouse Road per the 5/5/08 construction sequence and the plans, "Proposed Site Plan," by Mr. Neff, revised to 5/3/08. By Mr. LaMunier, seconded by Mrs. Hill, and passed 5-0.

Jackson-Karger/69 Wykeham Road/#IW-08-26/Patio, Deck, Terrace, Hot Tub: Mr. Neff, engineer, and Mr. Cassari, landscape architect, were present. The map, "Rear Landscape Development," by Hoffman Landscapes, revised to 4/29/08 was reviewed. Mrs. D. Hill noted there were two different scales on the map, the map was marked "preliminary," and the latest soil scientist information had not been included on it. Mr. Cassari said the same soil scientist who had done the original flagging had reflagged the wetlands just prior to the survey date. Mrs. Hill asked for the latest soils report. Mr. Cassari also stated the map was marked "preliminary" because it was subject to approval. Drainage from the patio was discussed. It was the consensus that the Commission need not be concerned about chemically treated splash water from the hot tub infiltrating into the wetlands. Mr. Picton thought the existing swale to the west of the terrace should be used rather than regrading and cutting trees for a new swale. Mr. Cassari said that if the existing swale was used to direct runoff away from the terrace, it would slow down the flow, which would be better for the wetlands. Mrs. D. Hill noted that the proposed silt fence ran across the equipment access. Mr. Picton pointed out alternate silt fence locations that could be used. It was thought that work to the east of the upper terrace should be kept to a minimum. Mr. Picton noted that the main structural work was uphill from the house, while the landscaping proposed was minor, although closer to the wetlands.

MOTION: To approve Application #IW-08-26 submitted by Mr. Jackson and Mr. Karger for a patio, deck, terrace, and hot tub at 69 Wykeham Road per the plan, "Rear Landscape Development," by Hoffman Landscapes, revised to 4/29/08 subject to the following conditions: 1. the Commission recommends that the existing swale to the west of the terrace be utilized instead of regrading for a new swale, 2. there shall be minimum regrading on the east side of the terrace site, and 3. a corrected plan showing the correct scale and providing information by the soil scientist for his most recent work shall be filed with the application. By Mr. Picton, seconded by Mr. Bedini, passed 5-0.

Osborne/191 Nettleton Hollow Road/#IW-08-27/Deck and Addition to Dwelling: The map, "Addition and Deck, Osborne Residence," by Mr. Worcester, dated 11/27/07 was reviewed. Mr. Picton noted that at the last meeting the Commission had not identified any potential adverse impacts that would result from the construction and that there was a flat lawn area between the construction site and the stream. Mr. Picton asked that a healthy vegetated buffer be maintained between the work area and the stream and that all construction equipment be kept at least 20 feet from the stream. Mr. Ajello reviewed the project narrative, noting that all the work would be done by hand.

MOTION: To approve Application #IW-08-27 submitted by Mr. and Mrs. Osborne for a deck and an addition to the existing dwelling at 191 Nettleton Hollow Road with the stipulation that all construction equipment must stay at least 20 feet from the stream. By Mr. Bedini, seconded by Mrs. Hill, and passed 5-0.

Kistela/73 Dark Entry Road/#IW-08-28/Single Family Dwelling: Mr. Neff, engineer, said there had been no revisions to the plan since the last meeting. The map, "Subsurface Sewage Disposal System," by Mr. Neff, revised to 5/8/08 was reviewed. Mr. Ajello said he had inspected the site and had no concerns. Mr. Picton noted that almost all of the proposed activities were more than 100 feet from the wetlands. Mr. Kistela said the smaller house and new driveway location would cause less disturbance than the plan previously approved by the Commission five years ago.

MOTION: To approve Application #IW-08-28 submitted by Mr. Kistela to construct a single family dwelling at 73 Dark Entry Road per the map, "Subsurface Sewage Disposal System," by Mr. Neff, revised to 5/8/08. By Mr. Bedini, seconded by Mr. LaMunier, passed 5-0

Gray-Dunlap/26 Painter Ridge Road/#IW-08-29/Correct Violation, Planting: Mr. Sabin noted that no outstanding issues had been raised at the last meeting. Mr. Picton stated that the Commission had decided that no bond would be required.

MOTION: To approve Application #IW-08-29 submitted by Ms. Gray and Mr. Dunlap to correct the violation and for additional planting at 26 Painter Ridge Road per the plan, "Proposed Landscape Restoration and Improvements," by Mr. Sabin, dated 5/13/08. By Mr. Bedini, seconded by Mr. LaMunier, and passed 5-0.

New Applications

Peloquin/1 New Preston Hill Road/Correct Violation: Mr. Ajello noted there were no representatives present and that the application was incomplete.

Wykeham Rise, LLC./101 Wykeham Road/#IW-08-31/Inn: Atty. Fisher gave a brief introduction. Mr. Szymanski, engineer, presented the map, "Site Development Plan for Wykeham Rise," by Arthur H. Howland and Associates, dated 5/7/08, revised to 5/28/08 for the proposed "low profile" inn-bar-restaurant complex. He pointed out the wetlands that had been flagged on the property and noted the existing service road from Bell Hill Road, which is located in wetlands, would be removed. He said the existing driveways would be used, although they would be narrowed and pervious surfaces installed. The service driveway in the rear of the existing classroom building would be removed and the area restored as a wet meadow. Throughout the property the drainage pipes emptying directly into the brook would be removed and replaced with infiltration systems, rain gardens designed to handle the first one inch of roof runoff from all of the proposed buildings, and grass lined swales leading to detention basins where suspended solids would fall out before reaching the stream. Mitigation was also proposed. The grassed area east of the entry would be restored to its original condition and function and the invasives there removed. He noted that currently there is only a 10 ft. wide buffer along Kirby Brook, but that this would be increased to 50 ft. and that the existing tennis courts at the edge of the wetlands would be removed and that area also restored and a buffer provided. The existing gravel parking lot would also be removed and the area used for stormwater management. All of the existing buildings would be demolished and the new buildings erected farther from the wetlands. Mr. Szymanski pointed out the proposed driveway to the upper section of the property, noting that it would be within 100 feet of wetlands due to the location of the existing septic system. He said the septic system had been approved by the DEP, but the piping would be replaced. He also noted the inn would tie in with the Judea Water Company. Mr. Picton thought the plans called for intense development on a hillside above wetlands. It was the consensus that a public hearing should be held.

MOTION: To hold a Public Hearing to consider Application #IW-08-31 submitted by Wykeham Rise, LLC. for an inn at 101 Wykeham Road because the proposed activities appear to be significant. By Mrs. Hill, seconded by Mr. Bedini, and passed 5-0.

Mr. Picton advised the applicant that the Commission would expect calculations for the existing versus proposed impervious surface areas and distances from all proposed activities to the wetlands and watercourses. He also asked that the 100 ft. line from the wetlands be more clearly indicated on the map. It was noted the application will be sent to the Commission's consultants for review and that the Commission would like the review completed before the start of the public hearing if possible. The date for the hearing will be set at the next meeting. A site inspection was scheduled for Wednesday, June 4, 2008 at 4:00 p.m. (This was later changed to Thursday, June 5 at 4:00 p.m.)

Halfon/Alpert/40 Plumb Hill Road/#IW-08-32/Renovations, Addition to Dwelling: Mr. Titman, contractor, presented the map, "Property/Boundary Survey," by Mr. Alex, dated March 2008. He noted the limit of disturbance line was marked on the map, that a silt fence would be installed to mark it on site, and that all construction would be outside the wetlands setbacks. Mr. Ajello said the work area would encroach only 10 feet into the upland review area. Mr. Titman noted the wetlands had recently been flagged and that the property was level between the building and the wetlands. He stated that no clearing was proposed. Mrs. D. Hill noted that neither the soil scientist's report nor his sketch map had been submitted with the application. Mr. Picton stated that while there did not appear to be any wetlands concerns, the proposal would be treated as a regulated activity as there might be activity within the upland review area. He asked that all relevant information be put on the map for the next meeting.

Thorn/228 West Shore Road/Renovations, Addition to Existing Dwelling: Mr. Neff, engineer, pointed out on his map, "Soil Erosion and Sediment Control Plan," dated 5/22/08 which section of the existing house would be renovated, which section would be rebuilt, and where the addition was proposed on the southeast corner of the house, the corner farthest from the lake. He noted that Lake Waramaug wraps around the property and that the existing house is 50 ft. from the lake, 30 ft. at its closest point. He said a new foundation would be installed under the section to be rebuilt. Mr. Picton said it looked like the construction area had been contained as much as possible. A site inspection was scheduled for Tuesday, June 3, 2008 at 4:00 p.m.

Lancaster/244 West Shore Road/Construct Patio, Abandon Cess Pool: Mr. Neff, engineer, presented his map, ""Soil Erosion and Sediment Control Plan," dated 5/24/08. He noted the location of the proposed patio and the cess pool. He said a new septic system had been installed outside the regulated area and the cess pool would be pumped out, crushed, filled, and graded over. The proposed patio would be stone set in a stone dust base at grade level against the house. No additional fill would be required. Mr. Picton said there did not appear to be any wetlands concerns and that the Commission had recently inspected the property so another site inspection would not be necessary.

Town of Washington/Couch Road/Drainage Improvements, Install Culvert: Mr. Ajello noted the sediment problem on the Hochberg property was due in part to the runoff from the state and town roads. To help alleviate the problem, the Town now proposed to install a cross culvert and sediment basin that would be easily accessible for clean out. The proposed location for the culvert was the only place in the area where it could be kept out of the wetlands. The map, "Drainage Improvement Map," by Arthur H. Howland and Assoc., dated March 12, 2007 was reviewed. Mr. Picton asked if the drainage along the east side of the road would be changed. Mr. Ajello said it would not. Mr. Ajello noted that Mr. Hochberg would apply for a permit to clean out his pond when this drainage work was completed. A site inspection was scheduled for Tuesday, June 3, 2008 at 4:30 p.m.

Other Business

Petition to Amend the Washington Zoning Regulations re: Pervious Surfaces, Lot Coverage: Mrs. J. Hill provided copies of the proposed revisions and the 3/24 and 5/19/08 Zoning Commission minutes for the commissioners to review. She noted Zoning's public hearing had been continued to June 23rd so there would be time for Inland Wetlands to comment if it wanted to.

Enforcement

Carron/Gunn Hill Road: Mr. Ajello reported that the spoils had been deposited in the approved designated area.

DiBenedetto/Calhoun Street: Mr. Picton asked if the ongoing work was being done within Land Tech's guidelines. Mr. Ajello responded that the planting was done and all work had stopped. Mr. Allan

of Land Tech is considering recommendations for eradication of the phragmites on site. Mr. Ajello said that Mr. DiBenedetto did not want to use chemicals, but it might be necessary.

Howard/99 West Shore Road: Mr. Howard left a message that he will soon come in to review his file.

Aquatic Weed Control Applications: Mr. Ajello stated that he has received notification from Mr. Gambino regarding applications made to the DEP and that in response he sent letters to the property owners and to Mr. Gambino that a local permit is also required. Mr. Thomson thought the alternative method checklist should be mailed to each property owner at the same time and Mr. LaMuniere suggested that the owner be told that he must respond within a specific time period. Mr. Bedini noted that the DEP is a major problem because it requires a specific response from the Commission before the Commission has had enough time to get all the facts to determine whether a specific response to DEP is warranted. Mr. Picton advised Mr. Ajello to look at each notification as quickly as possible to come to an opinion regarding whether comment to the DEP is needed. Mr. Thomson volunteered to be one of a subcommittee to work on these reviews. Mr. Picton said the goal was to get recommendations regarding alternate management methods to the owner and to the DEP whether or not the Commission has any authority to override a permit.

Lodsin/78 Litchfield Turnpike: The 5/12/08 letter to Mr. Lodsin from the Army Corps of Engineers was reviewed. It was noted that Mr. Lodsin was given thirty days to respond and that he had begun to remove some of the old vehicles from the property.

Gray-Dunlap/26 Painter Ridge Road: This matter will be taken off the enforcement list, although Mr. Picton asked Mr. Ajello to make follow up inspections.

Slaymaker/Sunset Lane: Atty. Herbst is preparing an application for the June meeting.

Kessler/West Mountain Road: Mr. Thomson asked if the monitoring reports were written and submitted for the file. Mr. Ajello said they were and gave a brief update of the project.

Administrative Business

Revision of the Regulations: Most of the commissioners had not yet completed their reviews of the proposed draft. Written comments should be submitted to Mr. Bedini.

Fine Ordinance: Mr. Picton reported that the proposed increase in fines had been unanimously approved at the May Town Meeting.

Consultant: Mr. Bedini will again contact the First Selectman about funding a consultant.

Communications

The 5/19/08 letter from Rivers Alliance to the Selectmen was noted. It asked for recommendations for projects to improve the welfare of the Shepaug River and its watershed. Mr. Picton thought that riparian buffer projects would be worthwhile. He also questioned whether the Depot Study's pedestrian footbridge over the river might be a project that could receive funding.

It was noted that a notice had been received from the Woodbury Inland Wetlands Agency to notify Washington of revisions to its Inland Wetlands Regulations per state statute.

MOTION: To go into Executive Session at 10:10 p.m. to discuss pending litigation. By Mrs. Hill, seconded by Mr. Picton, and passed 5-0.

MOTION: To end Executive Session at 10:29 p.m. By Mr. Thomson, seconded by Mrs. Hill, and passed 5-0.

MOTION: To adjourn the meeting. By Mr. Picton.

Mr. Picton adjourned the meeting at 10:31 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill, Land Use Coordinator