Inland Wetlands Commission

MINUTES

Regular Meeting

March 23, 2016

7:00 p.m. Main Level Meeting Room

MEMBERS PRESENT: Mr. Bedini, Mr. Davis, Mr. LaMuniere, Mr. Papsin, Mr. Wadelton

ALTERNATES ABSENT: Ms. Cheney, Mr. McCormack

STAFF PRESENT: Mr. Ajello, Mrs. Hill

ALSO PRESENT: Mr. Sabin, Mr. Szymanski, Mr. Trinkaus,

 Mr. Neff, Mr. Kersten

 Mr. Bedini called the meeting to order at 7:00 p.m. and

Seated Members Bedini, Davis, LaMuniere, Papsin, and Wadelton.

MOTION: To add the following subsequent business to

 the agenda: New Applications: C. Kersten/11

 Baldwin Hill Road/Application to Correct a

 Violation. By Mr. Wadelton, seconded by Mr.

 Papsin, and passed 5-0.

Consideration of the Minutes

MOTION: To accept the March 9, 2016 minutes as submitted.

 By Mr. Wadelton, seconded by Mr. Davis, passed 5-0.

Pending Applications

Bazos/90 Tinker Hill Road/#IW-15-52/Lake Access Path and Dock: Mr. Bedini recused himself. Mr.Sabin, landscape architect, submitted plans revised to 3/17/16, which included the addition of a rain garden and the rerouting of the mulched path around it, the addition of a flagstone path at the bottom step at the edge of the road, and modification of the sequence of construction. He also submitted an amended application as requested at the last meeting to provide the quantities of all materials to be used. Mr. Sabin noted there had been a question regarding the depth of ledge in the area proposed for the stone slabs and so he circulated several photos showing a spade depth of approximately 9 inches in spots evenly distributed down the slope to prove there was sufficient depth to deposit 6 to 8 inches of processed stone plus soil.

Mr. Sabin responded to an issue previously raised by Mr. Trinkaus and said that any work done along the road would require a DOT permit and if the DOT requires any modification to plans approved by the IWC, he would have to return to the Commission for approval of the revised plan. He noted the recharge area proposed at the bottom of the slope was to address concerns about “weepage” and icing. He said there was evidence of good percs there and so he had done no borings in that area. Mr. Trinkaus said plans for the recharge area were not fully thought out. He said there was no test data and so questioned whether there was the 3 ft. separation from the recharge bottom to bedrock so it could properly function and asked how the runoff would be directed to it. Mr. Trinkaus thought piping the runoff to the existing catch basin on West Shore Road should be considered.

Regarding the use of plywood, Mr. Sabin stated it was an attempt to minimize the impact on the hillside due to the proximity of the lake and said the fir strips were not intended for traction and the stakes to anchor it would not be driven deep into the ground because the plywood was not to be permanently installed. Mr. LaMuniere asked why Mr. Sabin did not do a detailed study of the ground conditions along the route of the steps so that he would know what he would encounter before work was begun. Mr. Sabin suggested this could be a condition of approval. Mr. Trinkaus thought the installation of the plywood was unlikely to work because resistance is needed to enable it to remain on the slope, and said he did not think the installation process was practical in the way it was proposed. Mr. LaMuniere said again that would be addressed if a study of the ground conditions was done before work begins.

Regarding Mr. Trinkaus’s 3/17/16 comment that a feasible and prudent alternative would be not to build the stone walkway down the steep slope; to either use another location to access the lake without disturbing the steep slope or to just place a bed of wood chips down the slope to the edge of the road, Mr. Sabin argued the vertical drop was so steep that a bark mulch path could not be done and that not allowing the pathway and steps in the approved subdivision accessway could be considered a taking. Mr. Trinkaus stated this would not be a taking because the owner still had reasonable use of his property and there were less intrusive alternatives that could be used.

 Mr. Szymanski’s plan, revised to 3/9/16 was reviewed. From an environmental standpoint, Mr. Trinkaus recommended a wider, flat swale along the driveway to slow the flow rate of the runoff and said the stone berm as proposed would not be sufficient to act as a level spreader and so concentrated flows would be the result. He also maintained that the erosion control method designed for the swale was not adequate and that finish contours were needed because the plan was not clear on how the driveway would be regraded.

 Mr. Trinkaus also thought the proposed cut at the bottom of the slope didn’t have to be so large, said construction plans for this area were lacking, and asked for a condition of approval prohibiting vehicles from parking there. Mr. Szymanski did not think parking in this area would cause an adverse impact to the lake.

Drainage flow was discussed. Mr. Trinkaus was concerned about the position and purpose of the proposed rain garden, said there was no data on how much or what type of soil was in the rain garden area, and noted that with the proposed cut into the hillside it would be likely there would be more flow at the bottom near the road.

Mr. LaMuniere noted the canopy would remain and that the Commission’s concern was whether there would be a serious negative impact on the lake. Mr. Trinkaus said he thought a negative impact was probable.

Mr. Szymanski responded to the points raised in Mr. Trinkaus’s 3/17/16 letter. Point #1: Mr. Szymanski said he had since provided the calculations for a 10 year storm and that the reinforcement mat will extend up the sides of the swale. #2: He explained he had proposed the installation of the permanent erosion control matting to maintain the stability of the swale in a 10 year storm. He said he had researched rain events for the last six years and found that 94.8% of all storms during this period had less than 1 inch of rain. He also stated that the proposed swale was 400 feet from the lake and it had not been demonstrated that any erosion from the driveway would make it down to West Shore Road. #4: Mr. Szymanski stated that he had added notes to the plan regarding the level spreader, that there has been only minimal erosion in the existing driveway, and that he proposed a series of swales as a conservative approach to handling the driveway runoff. #5: He offered to submit an as-built to demonstrate the regrading of the driveway would comply with the approved plan. Mr. Sabin added later in the meeting that at the end of the project, any damage to the driveway would be repaired. #6: Mr. Szymanski said the plan now includes a 15 inch diameter swale. Regarding the proposed rain garden, Mr. Szymanski agreed the elevation given had been wrong, but said the area was correct and a probe in that area found a satisfactory soil depth. He said a feasible and prudent alternative would be not to install a rain garden because it is not needed. He circulated many photos of impervious steps in the area, which showed no evidence of any erosion. Mr. Trinkaus said these photos had not been taken after a storm and Mr. LaMuniere stated that evidence of irregularities elsewhere around the lake could not be used to show the Commission should not do its job in this case. Mr. Szymanski stated that the canopy would be preserved, the route of the path had been modified to avoid cutting trees, the total proposed impervious surface would be only 750 sq. ft., and the runoff from the steps would flow to either bark mulch or forest.

Mr. Trinkaus briefly stated that there was room to widen the swale so it would be more functional, wood chips should be spread over the disturbed areas, there were alternatives to the proposal, a major one being not to make the cut out at the bottom of the hill, and he did not think the stone slabs could be carried safely down the hill over the plywood as proposed.

Mr. Davis said the Commission did not have the authority to prohibit parking at the bottom of the hill. Mr. Trinkaus disagreed, saying that the applicant had applied for a pedestrian access and that not enough information had been submitted for the Commission to make a determination regarding whether unnecessary disturbance at the bottom of the slope would impact the lake. Mr. Sabin noted that silt fence would be installed at the edge of the road at the end of each day and that this area would be needed for construction vehicles and the delivery of materials. He also stated that most of the runoff would flow directly down the slope and into the rain garden and that he had never observed an icing problem on this section of West Shore Road. Mr. Sabin disagreed, too, that wood chips should be spread over the disturbed areas because unlike leaf litter, he said they tend to compact and shed water.

 The Commission’s options were noted. It would deny the application, deny due to insufficient information, or approve it. Mr. Wadelton noted that to deny it, the Commission would have to show there was a reasonable probability there would be a significant adverse impact to the wetland or watercourse and would have to be prepared to state for the record the reason the risk to the watercourse outweighed the rights of the property owner. Mr. Davis asked if the application was approved, but once work started problems arose that had not been contemplated, would the Commission have any recourse. Mr. Wadelton responded the EO would address such a situation. Mr. Sabin stated the applicant would provide weekly reports to the Commission. Mr. Ajello stated that difficulties would be addressed on a daily basis if there was good communication.

Mr. LaMuniere said if approved, a bond should be required as a condition of approval.

Mr. Papsin wanted to see the technical data for the ground conditions to make sure no deviation from the proposed path would be needed. He also wanted test data for the areas where the landings would be installed. Mr. Sabin again referred to his photos of the spade dug into the ground to show the depth of soil. Mr. LaMuniere said that the three test locations using the spade were not enough; that every area for both the path and the plywood should be checked for their underlying conditions before work begins. Mr. Davis agreed additional borings were needed. Mr. Sabin suggested this be made a condition of approval. The method for doing the test borings was debated by Mr. Sabin and Mr. Trinkaus. Mr. Sabin said post hole diggers would be used at regular intervals, every 2 to 3 feet, along the proposed path route and that he would supervise this testing.

The bond was discussed and it was the consensus that a cash performance bond of $10,000 was appropriate.

In response to a question from Mr. LaMuniere regarding construction technique, Mr. Sabin explained how the slabs would be lifted by machine off the staging area and moved down the hill. He stated the swale would be installed and functioning before the slabs would be moved into place.

Mr. Wadelton did not think the denial of the application was a feasible and prudent alternative.

A straw poll was taken and found the commissioners favored approval with conditions. It was noted there would be many documents to reference in the motion and the clerk was directed to include them all when filing the motion.

Mr. LaMuniere noted Mr. Szymanski’s 3/9/16 letter included a long term maintenance plan.

MOTION: To approve Application #IW-15-52 submitted by

 Dr. Bazos for a lake access path and dock at 90

 Tinker Hill Road; refer to plans by Sabin Landscape

 Architects, sheets 1 and 2, revised to 3/17/16 and

 Plans by Arthur Howland, dated 1/29/16 and revised

to 3/9/16, together with all supporting documents and

 photographs including: 1/27/16 letter from Mr. Sabin

 to the Inland Wetlands Commission, 1/10/16 letter

 from Dr. Bazos to the Town of Washington, 3/9/16

 letter with attachment from Mr. Sabin to the Comm.,

 3/9/16 letter with attachments from Mr. Szymanski to

 the Commission, 3/18/16 letter with attachments from

Mr. Sabin to the Comm., 3/23/16 memo from Mr. Sabin

 to the Comm., 4 photos showing soil depth, 10 photos

 of existing stairways and steps around Lake Waramaug,

 and the plans, “Existing Easements and Topographic

Map,” by Arthur H. Howland and Associates, dated

2/25/15, and “Details,” by Mr. Sabin, dated 2/10/16;

 the permit shall be valid for five years and is

 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

Wetlands Enforcement Officer can inspect and

approve the erosion control measures,

1. that the property owner give the contractor copies

of both the motion of approval and approved plans

prior to the commencement of work, and

 3.any changes to the plans as approved must be

 submitted immediately to the Commission for review,

1. 4.a cash performance bond of $10,000 shall be

 submitted by the applicant prior to the start of

 demolition and construction to be held by the Town

 of Washington throughout the construction; this

 money may be used by the Town to secure the site

 in the event that mal performance or neglect by the

 applicant or his agents creates a risk of adverse

 impact on inland wetlands or watercourses; if the

 Town uses any bond funds pursuant to this condition,

 the applicant must, within 15 calendar days, restore

 or replenish the bond to the full $10,000 amount

 before construction may continue,

 5.before any work may begin the applicant must provide

 the Commission with a detailed analysis of the whole

 length of the stairway path of the underlying

 ground and any obstacle that may occur within that proposed path, and if obstacles are encountered,

with the corrections that are required if the

topography makes them necessary;

 in considering this application, the Commission has

 determined that no reasonable and prudent alternatives

 exist, and believes that there is no reasonable

 probability of significant adverse impact on any

 wetlands or watercourses.

 By Mr. Davis, seconded by Mr. Papsin, passed 4-0.

 A five minute break was taken and the meeting was reconvened at 8:50 p.m. Mr. Bedini was reseated.

Swartz and Valzania/8 Painter Ridge Road/#IW-16-10/Construct Dormer: Mr. Ajello reported that the intermittent stream was approximately 40 feet from the house and 50 feet from where the dormer would be built. He said there was a gentle slope of the property towards the stream and that silt fence would be installed. It was noted the application had been discussed at the last meeting and there were no outstanding questions.

MOTION: To approve Application #IW-16-10 submitted by Ms.

Swartz and Mr. Valzania/8 Painter Ridge Road to

construct a dormer on their existing dwelling per

the plan signed by C. Swartz dated 3/23/16; the

permit shall be valid for two years and is 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

Wetlands Enforcement Officer can inspect and

approve the erosion control measures,

2. that the property owner give the contractor copies

of both the motion of approval and approved plans

prior to the commencement of work, and

1. any changes to the plans as approved must be

submitted immediately to the Commission for review;

 in considering this application, the Commission has

 determined that no reasonable and prudent alternatives

 exist, and believes that there is no reasonable

 probability of significant adverse impact on any

 wetlands or watercourses.

 By Mr. Papsin, seconded by Mr. LaMuniere, passed 5-0.

Town of Washington/108 New Milford Turnpike/#IW-16-11/Application of Herbicide: It was noted a letter had been received asking that discussion be tabled to the next meeting. Mr. Wadelton suggested that the contractor begin the process to apply for a DEEP permit because if that permit was not issued soon, the time to do the work this season would run out.

New Applications

Palmgren/121 West Shore Road/#IW-16-12/Install Well: Mr. Neff, engineer, said the application was straightforward. Currently this property gets its water from the lake and so a well is proposed behind the house beyond the 100 ft. setback. He explained that on the east side of the house part of the proposed temporary access to the well site was within 100 feet of the lake. Mr. Papsin asked if the access would bust through the existing stonewall. Mr. Neff said that processed gravel would be deposited next to it to make a ramp that could be driven over and that the gravel would be removed upon the completion of work. The plan, “Proposed Well Installation Plan,” by Mr. Neff, dated 3/15/16 was reviewed. Mr. Neff pointed out where erosion control measures would be installed and the location of the well trench. There were no other questions and Mr. Neff was advised that he would not have to attend the next meeting.

CS 52, LLC./52 Calhoun Street/#IW-16-13/House Renovation and Addition: Mr. Neff, engineer, stated the house would be demolished, reconstructed on the same foundation, and extended on the side away from the pond. The “Proposed Site Plan,” by Mr. Neff, dated 2/24/16 and revised to 3/16/16 was reviewed. Other work proposed included building a porch and a deck on the side of the house, which was less than 50 feet from the pond, installing a new septic system, and rerouting the underground utilities. Mr. Neff stated no disturbance to actual wetlands was proposed and he noted the staging area was outside the regulated area. Mr. Ajello asked if there would be an underground pipe from the propane tank to the house and generator. Mr. Neff responded the pipe would follow a straight route to the front of the house and would probably run through the crawl space. Mr. Ajello asked if the 20 inch maple would be saved. When Mr. Neff said that was the goal, but he did not know whether it would be possible, Mr. Ajello recommended that protective fencing be installed around it. Mr. Papsin asked if dumpsters were proposed. Mr. Neff stated they would be located on the existing driveway. Mr. Neff said that trees would be cut on the east side of the house and that overhanging branches would be cut on the west side.

Kersten/11 Baldwin Hill Road/#IW-16-14/Excavation, Regrading: Mr. Kersten said he had discussed the proposed work with his contractor, who told him it would take a couple of days and when done the disturbed areas would have soil spread and would be seeded and mulched. The application form and site plan were reviewed. Mr. Papsin asked for a more detailed planting plan that would include types of plants, and their number, size, and location. Mr. Davis asked what the contractor advised about the top cut slope. Mr. Kersten said that slope would be graded to have a more gradual slope and would be seeded. Mr. Bedini asked Mr. Kersten to add to the application form that disturbed areas would be seeded and mulched. Mr. Kersten offered to install additional silt fence if the Commission thought it was necessary. Commissioners were asked to forward any additional questions to Mr. Ajello before the next meeting.

Allin Cottage, LLC./217 West Shore Road/#IW-16-08/Single Family Dwelling, Guest House, Pool, Driveway, Septic System, Well, Dock, Float, Accessory Building, Parking Area: Mr. Szymanski, engineer, presented his map, “Proposed Site Development Plan,” revised to 3/23/16 and his 3/23/16 letter with attachments, which, he said, addressed the concerns raised by Mr. Trinkaus at the last meeting. He reviewed this letter point by point. He noted he had addressed the concerns to the best of his ability and that this had resulted in a better plan. Mr. Trinkaus stated that he would review Mr. Szymanski’s responses and would submit additional comments at a later date. Mr. Szymanski asked that he submit them in time to be reviewed before the next meeting.

Other Business

Dobson/295 New Milford Turnpike/Request to Revise Permit

#IW-16-03/ Enclose Portion of Existing Building: The purpose of the proposed enclosure was to enlarge the restrooms on the main level of the restaurant. Mr. Ajello noted that the area to be enclosed had a concrete base and was within the area of disturbance approved previously. He said any soil disturbance would be minimal and the access route to the work area would also be the same as that previously approved. The map, “Septic System Repair Plan,” by Mr. Neff, revised to 2/17/16 was reviewed and it was noted the enclosure would be 65 feet from the East Aspetuck River. Mr. Ajello reported on the septic repair work that had recently been completed.

MOTION: To approve the request by Mr. Dobson/295 New Milford

Turnpike to revise Permit #IW-16-03 to include an

enclosure on the existing building per plans revised

to 2/17/16; all previous conditions of approval apply.

By Mr. Papsin, seconded by Mr. Wadelton, passed 5-0.

Anderson/30 Tompkins Hill Road/Request for 2 Year Extension of Permit #IW-13-34: Mr. Ajello noted that the pond dredging had not been done and there were no changes to the originally approved plans.

MOTION: To approve the request by Mrs. Anderson/30 Tompkins

 Hill Road for a two year renewal of Permit #IW-13-34

 to dredge the existing pond; all previous conditions

 of approval apply. By Mr. LaMuniere, seconded by Mr.

 Papsin, and passed 5-0.

Enforcement

 Mr. Ajello briefly reviewed his 3/22/16 activity report.

Hochberg/15 Couch Road/Unauthorized Excavation of Pond and Deposition of Materials: Several commissioners asked why this matter had not been resolved and was still listed on the agenda. Mr. Ajello explained that Mr. Hochberg had appealed his fine, but the Selectmen’s Office had never scheduled his hearing, although it had been referred there several times. The problem is that currently there are no hearing officers. A brief discussion followed regarding how the appeal process should be changed if it doesn’t work. Mr. Papsin noted the Hochberg permit would expire in September and he thought that the Commission should not grant him any future permits if the fine has not been paid. Mr. Bedini said he would discuss this matter with the First Selectman and the discussion would continue at the next meeting.

Lodsin/78 Litchfield Turnpike/Unauthorized Excavation/#IW-07-V12: This is another violation that has been listed under Enforcement for many years and has not been resolved. It was the consensus that since this issue was not under the control of the Inland Wetlands Commission, it should be removed from the list.

Administrative Business

 Mr. Bedini reported that he had written to Ms. Cheney to thank her for the work she had done for the Commission and to give her an opportunity to resign if she did not plan to attend future meetings. Mr. Wadelton thought her term was up in June.

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

 There being no further business, Mr. Bedini adjourned the meeting at 9:50 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

 By\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Janet M. Hill, Land Use Administrator