Inland Wetlands Commission

MINUTES

Regular Meeting

June 14, 2017

7:00 p.m. Main Level Meeting Room

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

 Mr. Papsin, Mr. Wadelton

ALTERNATES PRESENT: Mr. Bennett, Mr. Kassis

STAFF PRESENT: Mr. Ajello, Mrs. Hill

ALSO PRESENT: Mr. Neff, Ms. Whitty, Mr. Hochberg,

Mr. Neal, Mr. Hornack, Mr. Szymanski,

Mr. Hunt, Mr. and Mrs. Solomon

 Mr. Bedini called the Meeting to order at 7:00 p.m. and seated Members Bedini, Davis, LaMuniere, Papsin, and Wadelton.

MOTION: To include the following subsequent business

 not already posted on the Agenda: V. New Applications

 D. Coleman/31 South Fenn Hill Road/#IW-17-23/Fence,

 Wall, Drainage, Boardwalk, Path, Relocate Well, E.

 Village at Bee Brook Crossing Assoc./30 Juniper

 Meadow Road/#IW-17-24/Remove Trees, F. Kandel and

 Levine/28 Tinker Hill Road/#IW-17-25/Conduit under

 West Shore Road, G. Erben Properties, LLC./169 West

 Shore Road/#IW-17-26/Reconstruct Dwelling and Accessory

 Building, Install Walkway and Appurtenances, VI.

 Other Business: A. Wykeham Rise, LLC./101 Wykeham

 Road/Request to Revise Permit #IW-08-31/Regrading and

 Retaining Wall. By Mr. Wadelton, seconded by Mr.

 Papsin, and passed 5-0.

Consideration of the Minutes

 The 5/24/17 Regular Meeting minutes were accepted as corrected. On page 4 under Town of Washington, 5th line from the top, the phrase, “and replaced by precast concrete piers in the same footprint” was deleted.

MOTION: To accept the 5/24/17 Regular Meeting minutes as

 corrected. By Mr. Wadelton, seconded by Mr. Papsin,

 passed 5-0.

Pending Application

Copley/96 West Morris Road/#IW-17-19/Pond Maintenance: Neither the applicant nor a representative was present. However, it was noted that Ms. Copley had submitted maps and written responses to questions raised in Mrs. Hill’s 5/24/17 application review and by the commissioners at the last meeting. Mr. Ajello noted that although he had not reviewed the new documents, he had seen the pond and had discussed the proposed work with the contractor and had no concerns. The maps and statements submitted were briefly reviewed. Mr. Papsin and Mr. Wadelton said they were not comfortable acting on the application without a representative present; Mr. Papsin added that he did not want to set a precedent. Mr. LaMuniere noted that at the last meeting the Commission had asked that either the applicant or the contractor attend the next meeting and this had been included in the minutes.

MOTION: To table further discussion of Copley/96 West Morris

 Road/#IW-17-19/Pond Maintenance to the June 28, 2017

 meeting. By Mr. Papsin, seconded by Mr. LaMuniere,

 and passed 5-0.

New Applications

Town of Washington/Spring Hill Road at Kirby Brook/#IW-17-20/ Replace Bridge: Mr. Hornack, engineer, explained that the small 15 ft. span bridge with concrete abutments and wooden deck would be replaced to provide access to Steep Rock and that the Tunnel Road bridge would be replaced in the future. A precast single box culvert designed to carry the flow of a 100 year storm for this 2 sq. mile drainage basin was proposed; its bottom to be buried 1 ft. below the channel bed. The bottom would replicate the natural streambed. The plan, “Wetlands-Watercourse Impact Plan,” by Cardinal Engineering Assoc., dated April 2017 was presented. The project would also include either cast in place or precast concrete wing walls, the widening and regrading of 200 ft. of the road to 18 feet wide to accommodate two way traffic, paving a 50 ft. section over the bridge, and installing metal beam rails. Mr. Hornack briefly reviewed the construction sequence: 1) install the erosion control measures, 2) build the upstream and downstream temporary coffer dams with sandbags or filled balloons, 3) divert Kirby Brook to a by pass pipe, 4) excavate, 5) install the culvert, 6) prepare the foundations and install the wing walls, and 7) reconstruct the streambed. He noted the 42 inch by pass pipe was sized to carry a 2 year storm event, that flows from larger storms would flow over the coffer dam and through the work site, and that the goal was to prevent upstream flooding. He also said that 12 inch modified rip rap would be used on top of the natural streambed. Photos of similar projects were shown. Mr. Hornack said the work would be done during dry weather and would take about 4 months. Mr. Davis asked about the road work proposed above the bridge. Mr. Hornack responded the improved road would have an 8 inch sub base and 4 inches of processed stone, which would be compacted and crowned, and would not be paved. He then submitted written responses to the questions raised in the 6/9/17 application review, such as time of year the work would be done, equipment that would be used, note that equipment would be stored outside the 100 year flood plan, and that notice would be given to the Land Use Office at least 48 hours prior to the start of construction.

Lufkin/36 Hinkle Road/#IW-17-21/Dredge Pond: Mr. Neff, engineer, presented his plan, “Pond Cleanout Plan,” dated 3/16/17. He stated that the 4/10 acre pond would be dredged down 3 feet. The excavated silt and sediment would be dewatered on an area of lawn to the south of the pond and later spread elsewhere on the 32 acre property. The work would be done in August during dry weather and the duration would be 2 weeks. Mr. LaMuniere asked if the pond was spring fed. Mr. Neff said it was. Mr. LaMuniere asked how the dewatered spoils would be removed. Mr. Neff said the dewatering area was adjacent to the driveway so the dewatered material would be loaded onto trucks and hauled to an open field well beyond 100 feet from any wetlands. Mr. Neff said the pond level would be lowered by pumping because the small weir could not be used for this purpose. Mr. Davis was concerned about the spread of invasive species. Mr. Neff said he had not seen any, but the excavated material would be spread well away from any wetlands and so it would not be conducive for any invasive wetland species. Mr. Ajello suggested the permit be granted for longer than the usual two year period. Mr. Wadelton thought if more than two years was needed, the applicant could return for an extension.

Hochberg/15 Couch Road/#IW-17-22/Install Access Road: Mr. Hochberg explained that he had previously been granted approval for a subdivision road, but had subsequently revised his permit and had downgraded to a forestry access road. He noted his permit would expire on July 14, 2017 and that since further extensions were not possible, he was reapplying for what had previously been approved. Mr. Ajello noted the current plans were for a crossing without a pipe. The photo of the site, entitled, “Intermittent Stream Crossing,” was reviewed. Mr. Davis asked for confirmation that the Commission had previously approved the crossing and there were no changes now proposed. Mr. Hochberg said this was so. Mr. Wadelton explained the Commission must wait two weeks before acting on the application.

Coleman/31 South Fenn Hill Road/#IW-17-23/Fence, Wall, Drainage, Boardwalk, Path, Relocate Well: Mr. Neff, engineer, stated that many of the proposed activities, such as the installation of the pool, were not within the regulated area. Mr. Neff pointed out the 100 ft. setback on the map, “Proposed Site Plan,” dated 6/12/17 and said there would be no disturbance of any wetlands. Activities proposed within the 100 ft. setback included, installation of a section of the pool fence, straightening of the stonewall, and installation of a path and boardwalk, which, he said, had been located to limit their impact. Mr. Neff discussed the drainage on the property, which generally flows towards the driveway. He also said there would be no tree cutting; that the tree line would remain and that the stonewall would be moved further from the wetlands requiring excavation at both ends when it was reconstructed. Mr. Neff stated the pool equipment would be located 50 feet to the west of the pool. Mr. Ajello questioned whether there would be underground drainage to the wetlands. Mr. Neff said the drainage had been approved in the original application, noting the pool filter would be 20 feet from the nearest catch basin. He added that perhaps the use of a non discharge cartridge filter could be specified in the maintenance agreement and added to the plan. Mr. Ajello noted there were fields in the front of the property where the pool water could be discharged away from the wetlands. Mr. Neff reviewed the erosion control plan, narrative, and construction sequence. Mr. Papsin asked if a landscaping plan was proposed. Mr. Neff said Ms. Whitty would submit a landscaping plan, but noted the area is already heavily planted. Mr. Neff stated the property has a conservation easement held by Steep Rock and so a letter of approval from Steep Rock was required.

Village at Bee Brook Crossing Assoc./30 Juniper Meadow Road/ #IW-17-24/Remove Trees: Mr. Wadelton recused himself because he is an adjacent property owner. Alternate Bennett was seated. Mr. Neal, licensed arborist, and Mr. Hunt, Assoc. president, were present. The map, “Site Development Compilation Plan,” by Arthur H. Howland and Assoc. with hand drawn marks dated 6/12/17 to show the area where the trees would be cut, was reviewed. Mr. Hunt said that 25 to 30 “dangerously large” white pines would be removed. Mr. Neal stated that a crane would be used because they would do less damage and would lessen the impact on the area. He said the stumps would not be removed and the debris would be taken off site. He added that the rubber track bob cat skid loader that also would be used would have little impact. Mr. LaMuniere was concerned about the loss of the canopy and asked if all other species would remain. It was noted that the hardwoods and shrubs would not be cut. Mr. Hunt said the work would take 2 or 3 days and that the weather was not a concern as the ground would not be disturbed. Mr. Hunt was advised that it was not necessary to attend the next meeting.

 Mr. Wadelton was reseated.

Kandel and Levine/28 Tinker Hill Road/#IW-17-25/Install Conduit under West Shore Road: Mr. Szymanski, engineer, reviewed the plan, “Proposed Utility Road Crossing Plan,” by Arthur H. Howland and Assoc., dated 5/1/17. He explained three 3 inch conduits were proposed under West Shore Road, approximately 40 feet south of the site of the prior illegal excavation on the property, and said he had met with the state DOT concerning their installation. He noted the work would be completed before the state begins its planned road work. He also noted he had received Mrs. Hill’s 6/14/17 application review and would submit all missing material before the next meeting.

Erben Properties, LLC./169 West Shore Road/#IW-17-26/Reconstruct Dwelling and Accessory Building, Install Walkway and Appurtenances

Mr. Szymanski, engineer, presented the plan, “Proposed Site Development Plan,” by Arthur H. Howland and Assoc., dated 5/2/17. He explained the DOT requested a double catch basin twice as deep as the one previously approved. He noted the drainage now flowing under the house would be redirected to a set of rechargers for small storm events with the runoff from larger storms overflowing and running to the lake. Due to the large amount of work proposed for the site; reconstructing both the dwelling and accessory building, Mr. Szymanski recommended a site inspection. He said he would stake the locations of manholes, rechargers, turbidity curtain, etc. prior to the inspection. The site inspection was scheduled for Tuesday, June 20, 2017 at 5:00 p.m.

Other Business

Wykeham Rise, LLC./101 Wykeham Road/Request to Revise Permit #IW-08-31/Regrading and Retaining Wall: Mr. Szymanksi stated the site plans were being finalized and two modifications were proposed; regrading at the rear and on the east side of the main building, which, he said, would change the topography by a couple of feet, and the addition of a retaining wall. He said only a little regrading was proposed within the 100 ft. wetlands setback in the area near the drainage pipe and he added that the previously approved drainage would not change. The map, “Schematic Schedule A-3-1,” sheet Exhibit, by Arthur H. Howland and Assoc., dated 12/2/16 was reviewed. Mr. Davis asked about the proposed regrading. Mr. Szymanski responded there would be a 2 to 4 ft. difference in elevation, but the front and west side of the main building and the driveway would remain the same. Mr. LaMuniere asked if the retaining wall was necessary due to the burned out building. Mr. Szymanski said it was not. Mr. Papsin asked, what was the purpose of the regrading. Mr. Szymanski said it was to help with the calculations for the elevation of the main building. He added that although the footprint of the main building would be the same, changes to the interior design and the way the interior would function led to the need for the changes proposed. He also stated the limit of disturbance would not change.

MOTION: To approve the request by Wykeham Rise, LLC./

 101 Wykeham Road to revise Permit #IW-08-31 for

 regrading and to construct a retaining wall per

the plan, “Schematic Schedule A-3-1,” sheet Exhibit,

by Arthur H. Howland and Assoc., dated 12/2/16; all

 previous permit conditions remain. By Mr. Papsin,

 seconded by Mr. LaMuniere, passed 5-0.

Enforcement

 Mr. Ajello reviewed his activity report dated 6/14/17. Wykeham Rise, LLC./101 Wykeham Road: Although not addressed in his report, he noted that he had received complaints that Wykeham Rise, LLC./101 Wykeham Road had not installed erosion control measures prior to beginning work on the stonewalls along the road and bridge.

Town of Washington/59 East Shore Road/Beach Sand: Mr. Ajello reported that when he had advised Mr. Smith, the Town road foreman, that an application must be submitted prior to the deposition and spreading of sand at the Town beach, Mr. Smith told him he had previously been told just to notify the Commission when this work would be done. Therefore, Mr. Ajello asked the Commission to rule on whether or not an application and permit were needed. A very lengthy discussion ensued. Mr. Bedini pointed out that with maintenance work near wetlands and streams, the highway dept. does not always have time to plan the maintenance work and apply to the Commission for a permit. He suggested the Commission authorize the Enforcement Officer to discuss the deposition of beach sand with Mr. Smith, approve the work, and report to the Commission at the next meeting. Mr. Wadelton explained the deposition of beach sand is a regulated activity, which requires a permit or a Wetland Agent approval and said the Commission should not make a distinction requirements for the Town and for individuals. Mr. Papsin said because this was not the creation of a new beach he would be OK with a Wetland Agent approval. Mr. Davis thought it was too time consuming for the Town to process an Agent approval. It was the consensus that the Town should be treated like everyone else and a permit to deposit beach sand was required.

Wykeham Rise LLC./101 Wykeham Road/Reconstruction of Stonewalls: Mr. Ajello said it had been reported several weeks ago that the stonewalls were being reconstructed. He said there was a permit for the work, but that a bond had not been posted. He noted, too, that the First Selectman had complained that silt fence was not in place, but said due to the terrain, a silt fence could not be installed. He said there had been no impact to the stream, no sediment or turbidity, although there had been no heavy rains, but there were other erosion control measures that could be installed, and that he would take appropriate steps to require them. He noted that demolition was about to begin on the property, but the bond had not been posted. He said he had discussed the matter with Mr. Szymanski, Ms. Klauer, and Atty. Fisher. It was noted that in addition to the bond, one of the eight conditions of the permit approval was that an erosion control specialist must be hired to monitor the work. Mr. Ajello asked the commissioners if it mattered that some of the ongoing work was being done on Town property, stating that he thought approximately 95% was on Town property. He also stated that at the time the permit had been approved, he had assumed the stonewall would be rebuilt, although he did not know whether it was specifically stated in the application. Mr. LaMuniere asked if this current work was a violation of the permit. Mr. and Mrs. Solomon, adjoining property owners, asked if they could speak, but were advised there was no privilege of the floor and that they should contact Mr. Ajello during office hours. Mr. Bedini said he had inspected the site today and had found a lot of unprotected disturbed earth. Mr. Ajello stated there was unprotected disturbed earth on both sides of the stream and that today he had talked to the contractor, who said he would take care of it. Mr. Wadelton stated that the work being done was a regulated activity on Town property for which there was no permit. Mr. Ajello said that the work had caused no significant impact to the watercourse. Mr. LaMuniere stated it was not necessary to determine the work had impacted the stream, that if it is a regulated activity being done without a permit, it is a violation. Mr. Bedini said, in addition, that abond was supposed to have been posted. Mr. Davis agreed this was a violation. Mr. Wadelton agreed, noting work had been approved on the Wykeham property, not on Town property. Mr. LaMuniere noted that recently the Commission had OK’d the phasing of the bond for the demolition of the burned building, but that before any other activity could begin, the entire bond must be posted. It was the consensus that the owner should be notified by letter that: 1) the current work being done at 101 Wykeham Road is an unauthorized regulated activity and therefore, a violation, 2) that the work being done began before the required bond was posted and therefore, is also a violation, 3) that a fine for the violations will be issued, 4) that the owner must appear before the Commission with a plan to correct the violation, and 5) that work must stop until the bond is secured, the fine is paid, and an environmental consultant hired.

Communications

 It was noted that Mr. McGowan had sent an email on 5/26/17 to report that the Lake Waramaug Task Force had decided not to begin the herbicide treatment as scheduled. Mr. Wadelton said the invasives in the Warren section of the lake were being vacuumed up, put in bags, and hauled away.

Administrative Business

Revision of the Regulations: There was a lengthy discussion regarding whether to add the discharging of pool and hot tub water in wetlands, watercourses, and the upland review area to the definition of “Regulated Activity.” Mr. Wadelton said it was not necessary because 1) there was nothing in the model regs about it, 2) no other town in Ct. has a similar regulation, and 3) it would be unenforceable. Mr. Davis thought the matter should be addressed during the application process for each pool permit. Mr. LaMuniere and Mr. Papsin were concerned about salt water and chlorine being discharged into wetlands and watercourses; Mr. LaMuniere noting that it is the Commission’s job to protect them. Mr. Wadelton said this matter was already covered by state statutes. Mr. Papsin recommended the commissioners think about this and make a decision at the next meeting, but Mrs. Hill pointed out that the public hearing had been scheduled for July 26 and she was required to send the proposed revisions to the DEEP 35 days prior to the hearing. Another brief discussion followed and the following motion was made.

MOTION: To send the current draft revisions of the

Regulations to the DEEP for review without any

further revisions. By Mr. Davis, seconded by

Mr. Wadelton, and passed 4-1.

 Mr. LaMuniere voted No because he thought language

 re: hot tub and pool discharges should be added.

 The meeting was adjourned at 9:40 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill, Land Use Administrator