Inland Wetlands Commission

MINUTES

Regular Meeting

July 12, 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. and Mrs. Frank, Mr. Oskandy, Mr. Nelson

 Mr. and Mrs. Storck

 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

 B. Allin Cottage, LLC./220 West Shore Road/#IW-17-29/

 Repair Foundation, C. Fisher/66 Calhoun Street/

 #IW-17-30/Planting and Rock Placement, D. Collins/

 323 West Shore Road/#IW-17-31/Tree Removal, Rebuild

 Stone Shoreline; VI. Other Business: A. Mackesey/

 233 West Shore Road/Request to Revise Permit #IW-15-11/

 Shed, B. Sarjeant/28 Tinker Hill Road/Request to

 Release Bond for Restoration Plantings. By Mr.

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

Consideration of the Minutes

MOTION: To accept the 6/28/17 Regular Meeting minutes as

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

 passed 5-0.

Pending Applications

 Mr. Wadelton recused himself and Alternate Bennett was seated.

Village at Bee Brook Crossing Assoc./30 Juniper Meadow Road/

#IW-17-24/Remove Trees: It was noted there had not been a quorum at the last meeting and so no action had been taken on the application. Mr. Ajello reported that work had started without a permit, but he had not contacted the property owner about it. He noted that only two of the trees to be cut were in the regulated area. There was a lengthy discussion regarding whether the Association should be fined for the violation. Mr. Davis asked if a precedent would be set if the Commission did nothing. Mr. Bedini asked Mr. Ajello to confirm that there were trees to be cut in the regulated area and that work had begun before the permit had been issued. Mr. Ajello said this was so. Mr. Ajello also said, and Mr. Bennett agreed, that everyone should be held to the same standards. Mr. Ajello thought there were mitigating circumstances as at the end of the Commission’s initial review, the applicant had been told that he did not have to attend the next meeting. Mr. Papsin pointed out that if the applicant had thought the permit had been approved, he should have submitted a start card. Mr. Ajello agreed that a start card should have been submitted. Mr. Davis and Mr. Bedini noted that telling an applicant he does not have to attend the next meeting means that the material submitted is sufficient for action at the next meeting, but does not mean the application will be automatically approved. It was the consensus that there was a violation because work started without a permit, the Commission should enforce its Regulations, and that a $150 fine should be issued.

MOTION: To approve Application #IW-17-24 submitted by

 the Village at Bee Brook Crossing Assoc. for tree

 removal at 30 Juniper Meadow Road per the site

 plan, “Site Development Compilation Map,” by

 Arthur H. Howland and Assoc., dated June 12, 2014

 with hand drawn revisions dated 6/17/17; 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,

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

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 feasible 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.

 Mr. Wadelton was reseated.

Town of Washington/59 East Shore Road/#IW-17-27/Replenish Beach Sand: It was noted that the applicant had been told he did not have to attend the next meeting, work had not yet begun, and Mr. Ajello had found the berm was in good condition.

MOTION: To approve Application #IW-17-27 submitted by the

 Town of Washington to replenish the beach sand at

 59 East Shore Road in accordance with the plan in

 the file dated 6/26/17; 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,

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

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 feasible and prudent alternatives

 exist, and believes that there is no reasonable

 probability of significant adverse impact on any

 wetlands or watercourses.

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

New Applications

Frank/157 West Shore Road/#IW-17-28/Replace Existing Shed: Mr. Frank proposed to replace the existing 6’ X 8’ shed with the same size prefab shed. The shed would be installed on the existing concrete platform with no soil disturbance and the work would be done in one day. Mr. Davis asked if the shed would have electricity or water and Mrs. Frank said it would not. Mr. LaMuniere asked if the old shed would be removed from the site. Mr. Ajello asked of the old shed had asphalt shingles. Mr. Frank said the old shed would be hauled to the transfer station. Mr. Papsin said, and Mr. LaMuniere agreed, that it was a straight-forward application. Mrs. Frank said once the new shed was installed the planting approved per a previous application would be completed.

Allin Cottage, LLC./220 West Shore Road/#IW-17-29/Repair Foundation: Mrs. Storck submitted the plan, “Existing Conditions Map,” by Arthur H. Howland and Assoc., Sheet EC.2, dated 5/18/17. Mr. Wadelton reviewed Mrs. Hill’s 7/12/17 application review for completeness, which Mrs. Hill said she had sent to Mr. Szymanski, engineer. Mr. Storck noted how close the dwelling is to the lake and said the building would be raised high enough to excavate, pour a new foundation, and then set back down on the new foundation. Mr. Ajello asked if the chimney would be raised, too. Mr. Storck said probably not, but this would be determined by the contractor. Mr. LaMuniere said that a construction sequence had not been submitted and also stated that items to complete the application included; information on access to the work site, details on how the structure will be supported while it is being lifted, an erosion control plan, and submission of a site plan indicating the limit of disturbance, stockpile areas, and anti tracking pad. There were no other questions at this time.

Fisher/66 Calhoun Street/#IW-17-30/Planting and Placing Rocks: Mr. Nelson, contractor, presented his plan, “Fisher Residence,” dated 7/2017. He pointed out the location of the pond and the approximate quarter acre wet meadow to the north and proposed landscaping to give the area a more natural appearance. He said 3 ft. to 5 ft. accent rocks would be placed and the wet meadow area planted with native species that would withstand inundation. A plant list was provided. Mr. Nelson stated all planting would be done by hand and that a small skidder and small track machine would be used to place the rocks. He stressed that no matter where the machinery was operating, whether in wetlands or in dry areas, it would travel only over versa mats, which would eliminate the need for additional erosion control measures. He pointed out the location of the existing access. Mr. Ajello asked if there were any advantages, other than aesthetics, of the work to be done. Mr. Nelson responded that it would be valuable for bird habitat. Mr. Davis asked how the pond was fed. Mr. Nelson said it was spring fed and drains into the brook. Mr. Wadelton asked if the homeowner had been advised against fertilizing the lawn. Mr. Nelson said only organic lawn food was being used and that the additional plants proposed would be a valuable buffer. Mrs. Hill’s 7/12/17 application review was briefly discussed. Mr. Nelson said there would be no stockpiles. It was noted the site plan should indicate the access to the work site, 100 ft. setback line, and the area to be planted, but that contour lines did not need to be shown in this case. Mr. Ajello recommended that although the mats would be used, Mr. Nelson should include a statement regarding how any soil disturbance would be stabilized should it occur as well as who would be responsible for monitoring the site. Mr. Nelson stated he would be responsible. Also needed to complete the application were the submission of the signed conservation easement form and completion of the statewide activity reporting form. Mr. Nelson submitted the $120 application fee. Mr. Kassis asked if the mats were strong enough to handle the rocks and Mr. Nelson said they were as the mats and the tracks on the machines would distribute the weight of the rocks. There were no further questions.

Collins/323 West Shore Road/#IW-17-31/Remove Trees, Rebuild Stone Shoreline: Mrs. Hill reported that the application was very incomplete and that she had discussed it with Mr. Martinez, contractor, who would work on it before the next meeting. He had asked if the Commission would schedule a site inspection in the meantime. Mr. Ajello said in addition to the work proposed along the shoreline, he was concerned that the canopy would be impacted when trees were cut. Mr. LaMuniere asked why the trees would be removed. Mr. Ajello responded that the owner wanted to sit in the sun. Mr. Bedini and Mr. Davis said complete plans were needed before a site inspection would be scheduled. Mr. Ajello noted there was a scaled site plan in the file, but it was also noted there were no specific plans for the proposed stone work. It was not known whether a straight stonewall was proposed or how much of the shoreline would be rebuilt. It was the consensus that more detail was required and that the site plan should be enlarged. Mr. Papsin said it looked like the stone area would be built out further into the lake; it was not clear, though. He asked that the trees to be cut be marked prior to the site inspection.

Other Business

Mackesey/233 West Shore Road/Request to Revise Permit #IW-15-11/ Shed: Mr. Oskandy, engineer, presented the map, “Revised Site Development Plan,” by Arthur H. Howland and Assoc., dated 11/20/15 and revised to 7/10/17. He said the site plan had been modified to include a utility shed on the east side of the garage. The 11.25’ ft. X 18 ft. shed would be built into the area being cut out and bound on two sides by the retaining wall and on one side by the garage. Mr. Oskandy stated a slab, concrete front wall, and roof would be built and there would be no other disturbance that had not already been approved. Runoff on the property and the function of the rain gardens was discussed. Mr. Oskandy submitted two photos, dated 7/11/17, of one of the rain gardens to show how effectively it is infiltrating runoff. Mr. Wadelton noted this was a good example of low impact development. When asked if roof drains would be installed for the shed, Mr. Oskandy responded that roof runoff would be tied into the drains for the main building.

MOTION: To approve the request to revise Permit

 #IW-15-11 issued to Mackesey/233 West Shore

 Road to construct a shed in accordance with the

 the map, “Revised Site Development Plan,” by

 Arthur H. Howland and Assoc., dated 11/20/15 and

 revised to 7/10/17; all previous conditions of

 approval continue to apply. By Mr. Wadelton,

 seconded by Mr. Papsin, and passed 5-0.

Sarjeant/28 Tinker Hill Road/Request to Release Funds in Escrow:

Mr. Bedini reviewed the 7/12/17 letter from the Sarjeants asking for the release of the $500 held in escrow. Mr. Ajello reported the required planting had been done and circulated a photo of the site. It was the consensus that the plants looked healthy and a good attempt had been made to restore the disturbed area.

MOTION: To approve the release of the $500 held in escrow

 for Sarjeant/28 Tinker Hill Road and to take this

 matter off Enforcement. By Mr. Wadelton, seconded

 by Mr. Papsin, and passed 5-0.

Enforcement

Activity Report: Mr. Ajello reviewed his 7/12/17 report and the following matters were also discussed:

Harris/254-258 New Milford Turnpike: Mr. LaMuniere asked Mr. Ajello if he had inspected the banks along the Aspetuck River, noting they were supposed to have been stabilized and planted. Mr. Ajello stated they were fully stabilized.

Kyte/10 Barnes Road: Mr. Ajello asked if the temporary access remains, is the property owner required to apply to the Commission for a permit. Because the current permit states the access will be removed, it was the consensus that an application for a permanent access would be required. It was noted that if the access was to be permanent, the Selectmen would most likely require drainage work. Mr. Ajello stated his concern was that work beyond the terms of the permit would be done and said he would write to the property owner and copy the Selectmen.

Communications

Conservation Easement Form: Previously state law required the holder of a conservation easement to be notified when any work was proposed on a property, no matter if it was within the easement area or not. It was noted the law had been revised and the holder must be notified now only if the work will be done within the easement area. This concerned both the commissioners and staff because applicants could misrepresent the location of an easement or might not be aware that an easement exists. Mrs. Hill will contact Steep Rock to discuss this matter and to recommend its staff monitor all agenda items posted on line.

Enforcement

New Preston Falls/Rt. 202: Mr. Wadelton circulated the 7/5/17 Conservation Commission minutes regarding ongoing work at New Preston Falls. He noted that the tree cutting in Phase I had been done in the regulated area without an Inland Wetlands permit. Mr. Papsin stated that some of the work was being done in the Aspetuck River, which is a class 3 trout stream, that this was a violation, and that all work should stop until a permit is issued. Mr. Ajello said when asked last fall, he had advised the Conservation Commission that dead trees could be cut and invasive species removed by hand as long as there was no soil disturbance. Mr. Papsin again stated this was a blatant violation as there were tractors working near the stream and many truckloads of wood had been hauled away. Mr. Wadelton said the initial cutting should have had a permit and he agreed the ongoing work was a blatant violation. Mr. LaMuniere agreed. Mr. Ajello said the Town was showing its disregard of the Inland Wetlands Regulations. It was noted the minutes referred to upcoming Phase II work and the approval of a Beautification Permit, but no one was familiar with that kind of permit. The location of the work and whether or not it was taking place entirely on state property was discussed. Mr. LaMuniere suggested the Commission find out whether the Beautification Permit outweighed the IW Commission’s jurisdiction. Mr. Papsin recommended that all work stop until the Commission receives a detailed explanation of the work to be done and the reason why the Commission was not notified. Mr. Wadelton noted that the work done to date had been done without a site plan. He said if all the work was being funded and done by the state on state property, then the IW Commission had no jurisdiction. He thought an order should be issued to stop work and a show cause hearing should be scheduled. Discussion continued and it was the consensus that this was, indeed, a violation, work should stop, that Mr. Ajello would contact Mrs. Payne, Conservation Comm. chairman, and that the First Selectman should be consulted.

Revision of the Regulations: Mrs. Hill reported that the public hearing was scheduled for 6:45 p.m. on July 26, that the legal notice had been sent to Voices, and that the DEEP had been sent the proposed revisions.

Election of Officers: Mr. Bedini noted that a chairman and vice chairman would be elected. Mr. Wadelton noted the Commission by laws require the election of officers every year. Mr. LaMuniere stated he believed the Commission functions well, noting it had never lost an appeal and said he thought it was important to maintain continuity in order that the Commission function efficiently. He nominated the existing slate of officers; Mr. Bedini, chairman and Mr. Wadelton, vice chairman. Mr. Papsin and Mr. Bennett joined in Mr. LaMuniere’s motion. Mr. Kassis nominated Mr. Wadelton for chairman. It was then voted unanimously to end further discussion so that the vote could take place. It was the consensus to vote by secret ballot. The vote for chairman was: Mr. Bedini-4, Mr. Wadelton-2, and Mr. Davis-1.

Only Mr. Wadelton was nominated for vice chairman. The vote was: Mr. Wadelton-5, Mr. Papsin-1, and 1 abstention.

 Mr. Bedini adjourned the meeting at 9:03 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill

Land Use Administrator