Inland Wetlands Commission

MINUTES

Regular Meeting

July 8, 2015

7:00 p.m. Main Level Meeting Room

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

 Mr. Papsin. Mr. Wadelton

ALTERNATE ABSENT: Ms. Cheney

STAFF PRESENT: Mr. Ajello, Mrs. Hill

ALSO PRESENT: Atty. Fisher, Mr. Oskandy, Mr. Lyon,

 Mr. Fanning, Ms. Raymond, Mr. Spath

 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: VI. Other Business: B. Letter

 from The Gunnery re: revisions to plans for

 the athletic fields at 22 South Street, C.

 Reduction in scope of work for 101 Wykeham

 Road, LLC./101 Wykeham Road. By Mr. Wadelton,

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

Consideration of the Minutes

MOTION: To accept the 6/24/15 Regular Meeting minutes

 as written. By Mr. LaMuniere, seconded by

 Mr. Wadelton, and passed 4-0-1.

 Mr. Davis abstained because he had not

 attended the meeting.

Pending Applications

Carter/141 Shinar Mt. Road (54 Walker Brook Road)/#IW-15-14/ Repair Retaining Wall: It was noted the Commission had been waiting for written approval from the holder of the conservation easement and that this had been received.

MOTION: To approve Application #IW-15-14 submitted by Mr.

 Carter, 141 Shinar Mt. Road (54 Walker Brook

 Road) to repair the retaining wall in accordance

 with the plan, “Detailed Erosion Control Plan,

 Construction Sequence, and Details,” by Arthur

 H. Howland and Assoc., dated 5/5/15 and revised

 to 5/22/15; 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

 3) 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. Wadelton, seconded by Mr. Papsin, passed 5-0.

Kinney Hill Properties, LLC./43 Wykeham Road/#IW-15-23/Repair Septic System: Mr. Oskandy, engineer, submitted the revised plan, “Proposed Sanitary Disposal System Plan and Erosion Control Plan,” Sheet SDS.1, by Arthur H. Howland and Assoc., revised to 7/7/2015 and the 7/8/15 letter from Mr. Szymanski to Mr. Bedini in response to Ms. Hill’s 7/6/15 review. Mr. Oskandy stated the proposed new septic system would be farther from the wetlands than the existing, failing system and he pointed out the location of the silt fence that would protect the wetlands throughout construction. He also pointed out the 100 ft. wetlands setback line and said that the existing roof drains would be rerouted around the new septic system. In order to consider alternatives, Mr. Wadelton asked how much land there was to the east of the house. Mr. Oskandy did not know, but said there was ledge in that area, issues with the soil types there, and that the existing septic outlet was on the opposite side of the house. He also stated the existing septic fields would be abandoned and the tank removed. Mr. Ajello was concerned that the roof drain would empty over the old septic system. Mr. Oskandy said the runoff would be surface flow and that he was not concerned because it was permitted by the Health Code and the system would be abandoned. Mr. LaMuniere asked that the roof drain be labeled on the plans. Mr. Bedini noted the Commission considers feasible and prudent alternatives and so asked for information about why the new septic system could not be installed on the east side of the property. Mr. Oskandy stated that others in his company had investigated and had determined that the proposed location was a better location. Mr. Bedini asked if a pump station was installed, if the new system could be kept farther from the wetlands. Mr. Wadelton noted there was a possible alternative for the new septic system, but questioned whether it was feasible and prudent. It was the consensus that a letter addressing feasible and prudent alternatives and why the septic system could not be moved out of the regulated area must be submitted before the Commission would act on the application. Mr. Bedini also asked that a note be added to the plan that the old septic fields would be abandoned and the old tank removed. Mr. Ajello also asked for more information about whether stormwater should outlet over the abandoned septic system.

New Applications

Mello/183 Woodbury Road/#IW-15-24/Replace Culvert: Mr. Oskandy, engineer, presented the plan, “Culvert Replacement Plan,” Sheet SD.1, by Arthur H. Howland and Assoc., dated 6/26/15 and submitted his 7/7/15 letter addressing Mrs. Hill’s review. He explained the proposal was to replace the existing 36 inch corrugated pipe with a 42 inch pipe, construct a new wing type headwall, rebuild the existing stonewall to tie into the headwall, and install rip rap to armor the disturbed banks. He briefly reviewed the proposed construction sequence and noted the pipe was sized to accommodate a two year storm event; 95 cfs. Commissioners asked that the trees to be removed be labeled on the plan and that the types of equipment to be used be listed. Mr. Oskandy noted there would be a surface bypass pipe installed by the time trees are removed and so he was not concerned about sedimentation. Mr. Ajello noted his concern about the tightly constrained construction area and the need to continually cross the pipe to reach the stockpile area. Mr. Oskandy responded that the duration of work would be only two to three days and that an on site preconstruction meeting would be held. The commissioners requested that two revisions be made to the plan; 1) that the existing posts be labeled and 2) that it be noted the pipe that will carry the water will not be on the surface, but will be buried so it will function properly.

Town of Washington/Walker Brook Road-Bridge #3/#IW-15-25/Replace Bridge: Mr. Lyon, First Selectman, and Mr. Fanning, engineer, were present. Mr. Fanning, circulated a one page summary of the work to be done, explained that a multi plate galvanized pipe arch with end walls would be installed, and noted he anticipated a public hearing would be held as he thought this was a significant activity. He also noted the new culvert would be slightly larger than the existing culvert, that minor grading would be required, that rip rap would be installed at the downstream end for stabilization and to accommodate leak offs from the dirt road, and that baffles would be installed and natural material deposited to made a natural bottom so the culvert will be “fish friendly.” The plan, “Plan for Replacement of Walker Brook Road #3 Bridge Over Walker Brook,” 25 sheets, by WMC Consulting Engineers, dated 6/19/15 was reviewed. In further discussion it was noted the life expectancy of the new culvert was 75 years, the bridge is located at the Chapin Road intersection, the natural material on the bottom will help protect the bottom of the culvert, the Town of New Milford had been notified of the application, and the project would take approximately six months to complete. The Handling Water plans were reviewed. It was noted that Walker Brook would be diverted for two months and the commissioners were concerned about impacts from large storm events during that period. Mr. Fanning reviewed the coffer dam plans and stated that if the flow went over the dam or if the dam failed, there would not be a surge and there would be minimal impact. Mr. LaMuniere asked what storm event the culvert had been sized for. Mr. Fanning said it had been sized for a 100 year storm event during which there would be a one foot clearance in the pipe. He noted the plans had already been reviewed by the Army Corps of Engineers, said he understood flood management certification with a category II permit from the Corps is required, and said the DEEP would be would be given copies of the plans. Mr. Fanning stated there were no wetlands soils in this area; it was rocky, and there would be permanent watercourse impacts. The profile was reviewed. Mr. Bedini asked for the commissioners’ thoughts about scheduling a public hearing. Mr. Lyon said his office had already held a public information meeting with the area residents to review the preliminary design and that he planned to hold a second such meeting. It was the consensus that this was a localized concern and that neighborhood concerns had been addressed so there was no need for a hearing, although one could be scheduled later if a petition was received. Mr. Fanning noted the contactor is required to submit an erosion and sedimentation control plan and water handling plan to the Feds and that the construction manager is required to be on site during the project. Mr. Papsin asked what was used to salt Walker Brook Road. Mr. Lyon said a salt-sand mixture was used and that the use of salt was limited on dirt roads.

Schein and Mostajo/2 Wykeham Road/#IW-15-26/Replace Septic System: Atty. Fisher submitted a letter of authorization from the property owners. The plan, “Septic Repair Plan,” by Smith and Company, dated 6/22/15 and revised to 7/7/15 was reviewed. Atty. Fisher explained the application is to repair a failing septic system, which is 60 feet from a brook on an adjoining property and that given the location of the ledge and buildings on the property, said there was no other suitable location for the new system. He stated the old leaching fields would be abandoned. He pointed out the proposed location for a new septic tank if a new one is needed and the limit of disturbance line/silt fence line. Mr. Ajello asked where the top soil would be stored while the work was in progress. Atty. Fisher did not know. Mr. Ajello also noted that if a pump chamber was installed, it would require a service trench that was not indicated on the plan. Atty. Fisher informed the Commission that an application for a variance had been submitted to the ZBA because the Zoning Regulations prohibit septic systems within 100 feet of a watercourse. Mr. Davis asked if the proposed location was the farthest possible distance from the brook and whether there were feasible and prudent alternatives. Atty. Fisher again said there was no other location on the property where it could be installed. Mr. LaMuniere thought the proposal was an improvement because it moved the septic farther from the brook. Other than the request to add the stockpile area and service trench to the plan, the Commission had no other concerns or questions.

Pennell/33 Fenn Hill Road/#IW-15-27/Aquatic Weed Control: Mrs. Hill noted this application was incomplete; it was not signed by the property owner, the fee had not been submitted, and the conservation easement form had not been submitted.

Meyer/106 Shearer Road/#IW-15-28/Aquatic Weed Control: Ms. Raymond noted the state permit was pending. She proposed to treat the thick mat of non native vegetation covering the 10 to 12 foot deep pond with Reward, but added that dewatering and dredging might be considered in the future. She stated the pond has a dam that controls the flow and that there would be no outlet during an approximate one week period after application, well beyond the two to three days that the herbicide would remain active. She said the herbicide would not kill anything else and would not impact the emergent vegetation to the south. Various methods for stopping the flow from the pond such as using a coffer dam, adding boards to the dam, topping the dam with sand bags, and pumping down the pond before applying the herbicide were discussed. The possibility of dredging the pond was discussed. Ms. Raymond said that it had been determined that application of the herbicide would have the greatest impact and would result in the least disturbance to the wetlands. She also stated that the state had listed the chemical to be used as highly successful. Mr. Bedini asked how the growth around the edge of the pond would be treated if the water level was lowered by two feet. Ms. Raymond said those plants would be sprayed directly. Mr. Davis was concerned that it was not known how much water could flow into the pond during a large storm and whether it could be contained. Ms. Raymond said the pond had a large storage capacity. She stated that the work would not begin if storm events were forecast, and if the application was already underway, in addition to the lowering of the water and placement of sand bags, which would have already been done, a coffer dam could be installed. She noted the contractor would be on site to monitor conditions for the full week the flow would be blocked. Mr. Bedini noted that the pond eventually empties into the Shepaug and the Commission wanted to make sure the herbicide would not reach the river. Mr. Wadelton asked that an exact protection plan and the state application be submitted. Mr. Bedini agreed that an exact written statement describing the measures to be taken to address the Commission’s concerns was required. Mr. Wadelton also asked for copies of the stat sheets for the products to be used. It was also noted the state permit is required before the Commission can act on the application.

Lobianco/68-72 Old North Road/#IW-15-29/Dredge Pond to Remove Phragmites: Ms. Raymond proposed to mechanically remove phragmites from the perimeter of the pond. She noted the pond had an old earthen dam with no outlet and that while lawn surrounded most of the pond, the east edge was forested. She said the 10 to 20 foot wide swath of phragmites encircled 75 percent of the pond, was very thick, and that its roots probably were 3 to 4 feet deep. She said the plants would be cut and then the roots would be dug out with a small, low impact excavator. She added that all work would be staged from an upland area and that the plants would be dewatered, dried, burned, and buried as compost on site. Mr. Ajello asked if the excavation would change the size of the pond or the nature of the banks. Ms. Raymond said the excavation would result in a sharper drop into the water, but said she would not know exactly until the roots had been removed. She noted, too, that shade trees would be planted around the perimeter of the pond to discourage the regrowth of the phragmites and that sediment would settle back down into the pond because there was no way it could leach out. The plan, “Pond De-vegetation,” by Mr. Sonnichsem, dated 7/2/15 was reviewed. Mr. Papsin asked for a planting plan showing the location, number, size, and types of trees to be planted. Ms. Raymond said they would be staggered and fast growing and she would submit more information for the next meeting.

 Mr. Bedini called a five minute recess and then reconvened the meeting at 8:57 p.m.

Other Business

Haight/45 Old North Road/Request to Revise Permit #IW-14-46/ Replace Buried Utilities: Mr. Ajello explained there is an existing underground service with no conduit, which the Building Official will not approve. Therefore, multiple conduits are now proposed. The map, “Site Plan,” Sheet S/1, by Stuart Somers Co., LLC., dated 8/22/14 and revised to 6/29/15 was reviewed. Mr. Spath, engineer, pointed out the silt fence location and wetlands boundary and described the proposed work. An excavator with a 30 inch bucket will be used to dig the 3.5 foot deep trench. It was noted the work would take three days and the top soil will be placed back on top when the project is completed. There were no questions or concerns.

MOTION: To approve the request to amend Permit #IW-14-46

 By Mr. Haight, 45 Old North Road to replace buried

 utilities per the “Site Plan, 45 Old North Road,

 Washington, Ct.” prepared for Mr. Haight, signed

 by Mr. Mack, engineer, dated 8/22/14 and revised

 to 6/29/15; all previous conditions of approval apply.

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

The Gunnery, Inc./22 South Street/Revision to Permit to Construct Athletic Fields: Mr. Ajello presented the plan, “Grading and Drainage Plan,” by Smith and Company, dated 6/15/15, which showed revisions to the approved infiltration system. He explained the soils in the fields had been compacted during construction. So in order to improve the infiltration of rain water and to eliminate most of the runoff before it reaches the level spreaders, the following plan had been proposed: scarify the soils, create 12 by 12 trenches 40 feet apart across both fields, install in each trench a 4” perforated pipe with the holes down, fill around each pipe with three quarter inch crushed stone, cover this with filter fabric, cover this with 4 inches of sand, and finally cover that with topsoil and sod. He said that slit trenches made in the sod and filled with sand were also proposed to encourage infiltration. Mr. Ajello noted that Mr. Klein, soil scientist, had been on site and had reviewed the plan, and said he had consulted with Mr. Allan, who was OK with the proposal. He reported he had then told The Gunnery it could go ahead with the work. Mr. Davis noted the drainage problems that had resulted when the school’s soccer field on Green Hill Road had been reconstructed and said he hoped The Gunnery had learned from its past mistakes. Mr. Ajello thought the proposed slit trenches would prevent similar drainage problems at the South Street site. Mr. Wadelton noted that the original application had had an extensive public hearing, that the public had voiced many concerns, that there had been an appeal, that the Conservation Commission had been concerned, that there had already been one failure, and that this revision might not be considered minor by those who had opposed the project. Both he and Mr. Papsin thought the work proposed was major enough to require a new application. Mr. Davis asked if this meant another public hearing would have to be held. It was noted this was not necessarily required unless a petition for a hearing was received. Mr. Ajello said the disturbed areas should be grassed as soon as possible to prevent another failure and noted the longer the longer the work was delayed the more risk there was that problems would occur. Mr. Bedini said the Commission had to determine whether the proposed work was a major change to the original permit, and if so, a new application would be required. He said he did not think the revision was minor and said he thought a public hearing should be held. Mr. Ajello read condition #5 in the approval motion, which specified the enforcement officer could authorize minor changes or reductions in scope provided that he report changes to the Commission and that substantial changes or changes that could impact wetlands must be approved by the Commission. It was the consensus that the proposed revisions were an improvement to the originally approved plan, but that whether or not they were major was the issue the Commission must consider. Mr. LaMuniere thought after reviewing condition #5 that The Gunnery should be allowed to proceed with construction as he said, the proposed revisions will improve infiltration and “guarantee” there will be no adverse impacts to wetlands or watercourses. Due to the contentious nature of the original application and the scope of the work proposed, it was decided that the Commission’s attorney should be consulted. Mrs. Hill was asked to inform Atty. Olson that all commissioners agree the proposed revisions will result in significant improvements to the drainage system and will have no negative impacts on the wetlands or watercourse and that Mr. Allan, the professional hired to monitor the project, has endorsed the proposed revisions and to send her a copy of the proposed plan, the two letters from The Gunnery’s engineers, and original motion of approval for her review. Mr. Wadelton advised Mr. Ajello to inform The Gunnery that it must stop the ongoing work to implement the revised plan until Atty. Olson has advised the Commission about whether a new application is required. The other commissioners agreed. Mr. Wadelton thought it was best to “err on the side of fairness” to give the opposition the opportunity to review the new plan.

101 Wykeham Road, LLC./101 Wykeham Road/Proposed Revision to Approved Plan: Mr. Ajello reported that the proposed revisions to the Settlement Agreement were minor; five parking spaces had been removed and in three areas hardened sections for fire fighting access had been added per request of the Fire Marshal. He said there were no changes to the drainage system and that the changes before the Zoning Commission and Fire Marshal had no wetlands impact and so he had approved them.

Town of Washington/School Street/Clearing and Tree Cutting Along the River Walk: Mr. LaMuniere reported that the road crew had removed trees on an almost vertical slope within 10 feet of the Shepaug River. He stated these were healthy trees, were well within the URA, and they had provided an important canopy over the river and noted a Wetlands permit had been required for this work and that the IWA Regulations apply to everyone. Photos of the damaged area were circulated. Mr. Bedini said he had spoken to Mr. Smith of the Highway Dept. who had indicated that having to wait two weeks for a permit would probably “not work” for that department. He also said he had asked Mr. Smith to come to the Commission to discuss work proposed within regulated areas. It was noted that even in cases where work in the URA would be exempt, it is up to the Commission to determine it is exempt. It was also noted that similar violations by the Town had occurred in the past. The consensus was this matter should be addressed so that it does not happen again. It was thought that Mr. Bedini should send a strongly worded letter to Mr. Smith to inform him that the Highway Dept. is required to consult with the Commission before working in regulated areas. Mr. Bedini suggested that a “cooperative procedure” be set up to enable Mr. Smith to discuss upcoming work with the WEO. Mr. Ajello said he would call Mr. Smith. Mr. Ajello said he would inspect to see whether the canopy had been diminished or the riverbanks severely disturbed. Mrs. Hill noted the Commission could require a restoration plan if the banks had been impacted.

 It was noted Mr. Ajello’s activity report had been circulated.

Communications

Andryc/139 West Shore Road/6/24/15 Email from Mr. McGowan: Mr. Ajello noted he had not received this email in time to bring it to the last meeting. He noted Mr. McGowan had raised several Zoning issues. Mr. McGowan also stated in his email that the cantilevered concrete deck approved by the Commission poses a greater threat to the lake’s water quality and habitat than a wooden deck. Mr. Wadelton noted that Mr. McGowan had submitted no documentation in support of this allegation. Mr. Ajello said no one had challenged the application at the meeting. Mr. LaMuniere disagreed that the concrete deck poses a greater threat to the water quality.

Lancaster/West Shore Road: Mr. Papsin had observed that a bank close to the lake on the Lancaster property had been denuded and he was concerned because he thought there was a catch basin in the area. Mr. Ajello said there was no direct discharge to the lake in this area.

Administrative Business

Revision of the Regulations: Mr. LaMuniere reported that he will work on further revisions per comments from Atty. Olson.

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

 Mr. Bedini adjourned the meeting at 10:08 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

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

 Janet M. Hill

 Land Use Administrator