Inland Wetlands Commission

MINUTES Special Meeting August 14, 2018

6:30 p.m. Legion Hall

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

ALTERNATE PRESENT: Mr. Matthews

ALTERNATE ABSENT: Mr. Kassis

STAFF PRESENT: Mrs. Hill, Ms. Hodza

ALSO PRESENT: Mr. Rogness, Mr. and Mrs. Solomon, Mrs. Giampietro, Mr. Szymanski

101 Wykeham Road, LLC./101 Wykeham Road/#IW-18-04/Inn

Mr. Wadelton called the meeting to order at 6:30 p.m. and seated Members Bennett, Davis, LaMuniere, Papsin, and Wadelton. To begin discussion, the following motion was made.

MOTION: To approve Application #IW-18-04. By Mr. Davis and seconded by Mr. LaMuniere.

Mr. LaMuniere read a statement in which he made the following points. 1) There had been a continuity in definition and scope of the drainage and stormwater management system from its approval in 2008 to the present and the revisions made when the permit was subsequently amended did not significantly alter it. 2) In 2012 a peer review by Land Tech of an amendment to the Wykeham University approval concluded there were no significant changes in the proposed regulated activities that could negatively impact the site’s wetlands and watercourses. 3) Additional amendment requests between 2012 and 2017 did not propose significant changes to the drainage and stormwater management system as defined in 2012. 4) Regarding the current application, the intervener claimed that without a proper review and “re-definition,” there would likely be a negative impact to the wetlands and watercourse; a claim the applicant’s engineer denied. 5) A peer review of the current application found it was, for the most part, identical to the previously approved permit and that the revisions and corrections called for by the intervener did not materially change the application or its potential negative wetlands impacts. 6) Technical comments and recommendations from both the intervener and applicant’s engineer have strengthened the application. 7) These changes, however, are not significant enough to justify the Commission’s reversal of its previous approval. Therefore, he thought the application should be approved. 8) He endorsed Land Tech’s 7/28/18 recommendations and also recommended two additional conditions of approval: a. that Sheet SEQ.4 be amended to label the reinforced lawn access path for use by emergency vehicles only and not to access the poolhouse and b. that the amount of the cash performance bond should be increased.

Mr. Papsin read a statement in which he stated that the current application did not propose significant changes to the overall scope of the project, that best management practices would be adhered to for the duration of the project, and that peer reviews had determined there would be no significant adverse impact to the wetlands or watercourses. Based on these findings, he recommended approval of the application.

Mr. Davis noted he had compared the original plans to the current proposal, agreed with Mr. LaMuniere and Mr. Papsin, and said the new application did not present substantial changes that would negatively impact the wetlands.

Mr. Bennett noted that he had not participated in 2008, but had reviewed all of the information submitted with the current application and agreed there had been no significant changes. He noted the Commission’s consultant was satisfied in all respects with the application and so recommended approval with conditions.

Mr. Wadelton read a statement that included the following points. 1) The current application was essentially the same as the permit that had expired in November 2017. 2) The previous permit, approved in 2008, had been revised several times and each time those revisions had been approved unanimously and each time the Commission had found there would be no significant adverse impacts to the wetlands or watercourses. 3) Given that it is the Commission’s responsibility to consider substantial evidence when determining whether there will be adverse impacts and whether they are significant, he stated that after considering the testimony of all of the experts who participated in the review process, he made these conclusions. The allegations made by the intervener and her engineers were after the fact reviews of plans already considered and approved by the IWC in previous revision requests. Many of their allegations concerned plan aspects either outside the upland review areas, under the jurisdiction of other Town departments, or beyond the Inland Wetland Commission’s authority. What had been proposed as feasible and prudent alternatives had actually been just alternative approaches to addressing engineering problems as one would expect from different engineers. There was no supporting evidence that the proposal would impact the wetlands and watercourse and the one time each of the intervener’s engineers had stated there would be adverse impacts, neither engineer had elaborated supporting his claim. Also, he pointed out that in order to require that feasible and prudent alternatives be adopted by the applicant, the Commission must find the proposal has the reasonable probability of causing significant adverse impacts, which could be eliminated by the alternative. He stated there had been no such finding and that Land Tech did not find the proposal would result in any likely adverse impacts. 4) He stated that when carried out incorporating best engineering practices and low impact development design concepts, there would actually be an improvement over the current situation on site and so recommended the application be approved with any conditions the Commission may think were necessary.

Conditions of approval were considered. The conditions approved on 12/8/2010 were used as the basis for discussion.

Performance Bond: Mr. Wadelton recommended a cash bond. Mr. Davis, Mr. LaMuniere, and Mr. Papsin thought the $50,000 bond required in 2008 was not enough now due to the magnitude of the project and the fact that costs had increased in the ten years since the original approval. It was suggested the bond amount be increased by $25,000. Mr. Papsin agreed, but thought in order to keep tighter control on the project so that there would be less chance for things to go wrong, the Commission should also limit the area that could be disturbed at any one time to a maximum of 3 acres. Mr. LaMuniere disagreed because he thought the coordination of workers, mobilization of machinery, area of disturbance, etc. should be left to the judgement of professionals, thought the project would be completed in less time without the 3 acre restriction, and said the intervener had not asked for this limitation. Mr. Wadelton noted a decrease in construction time would reduce the potential for adverse impacts. It was the consensus to set the bond at $75,000 and to leave the maximum area to be disturbed at any one time at 5 acres.

Consultant’s Bond and Construction Monitoring: It was noted that a $5,000 consultant’s bond had worked well for the Gunnery soccer fields and that this bond is used to pay for the monitoring of the ongoing work by a professional licensed in erosion control and stormwater management.

Site Monitoring After Completion of Work: It was the consensus this condition should be included.

Reports by the Erosion Control Professional: It was agreed that bi weekly rather than weekly reports should be required and that for clarity, it should be noted that bi weekly means every other week.

Pre Construction Meeting: No changes were proposed to this condition.

Changes to the Approved Plans: Mr. Bennett recommended that proposed changes to the sequence of construction be added to this condition and the other commissioners agreed.

Disturbance Limited to a Maximum of 5 Acres at Any One Time: As was previously noted, it was the consensus to keep this limitation at 5 acres.

Ms. Hodza, WEO, recommended the professional hired to monitor the construction site should not be the same professional who had been hired to review the application on the Commission’s behalf.

Mr. Davis noted his concern that heavy traffic could crush the leaching field and asked if there should be a condition to address this. LaMuniere recommended an additional condition that a note be placed on the final plan that the grass road shown as an emergency access is to be used by emergency vehicles only and not to serve the poolhouse. A lengthy discussion followed. Mr. Wadelton stated the IWC had no authority to require that restriction be placed on the plans and that this was a matter to be addressed by the Zoning Commission. Mr. LaMuniere maintained that Mr. Szymanski had stated for the record this would be used for emergencies only, but had not labeled the plan as he should have. Mr. Wadelton said there would have to be substantial evidence shown of adverse impacts to the wetlands and watercourses in order for the Commission to require this note be placed on the plan.

Land Tech Recommended Conditions: It was the consensus to include the conditions recommended in Land Tech’s 7/25/18 letter. Ms. Hodza noted that prior to the commencement of any construction, Land Tech should review the final plans to make sure that all of its concerns have been addressed and incorporated.

MOTION: To approve Application #IW-18-04 submitted by 101 Wykeham Road, LLC. for an inn at 101 Wykeham Road subject to the following conditions:

1. A cash performance bond of $75,000 shall be submitted by the applicant prior to the onset of demolition and construction to be held by the Town of Washington throughout construction and subsequent monitoring periods. These monies may be used by the Town to secure the site in the event that mal performance or neglect by the applicant or her 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, replenish or restore the bond to the full $75,000 amount before construction may continue.
2. A qualified professional in erosion and sediment control and stormwater management shall on behalf of the Commission, monitor job site conditions for any unanticipated erosion and sedimentation risks and to confirm compliance with application details and the use of best management practices. The applicant shall be responsible for all of this qualified professional’s fees for these services and shall, no later than the date of commencement of construction, submit to the Commission a cash bond, which shall be held by the Town and which must be maintained in the amount of $5,000 throughout all phases of construction and monitoring. The Town shall pay the professional’s fees from the bond and the applicant shall replenish the bond to the full $5,000 amount within 15 calendar days. The professional will issue a report to the Land Use Office, with a copy to the applicant after each site inspection, generally according to the following guidelines: Consultant’s Inspection Schedule: twice per month during general construction phases and periods, seasonally during post construction and throughout the monitoring period, and at any time at the request of the Land Use Enforcement Officer or because of mal performance, neglect, or serious weather situations. Also, the Wetlands Enforcement Officer shall inspect the site once per week during the construction phases.
3. The site shall be monitored according to schedule for two (2) full years after the end of construction, and until the disturbed areas of the site are fully stabilized, whichever is later. The site shall not be deemed to be fully stabilized unless the Commission makes a specific finding to that effect. Long term maintenance of the stormwater management system shall comply with the maintenance schedule as described on the site development plans. A log of maintenance activities shall be submitted annually to the Land Use Office in December. All wetland mitigation plantings, buffer plantings, and stormwater pond plantings shall be monitored for three (3) growing seasons. Dead plants are to be replaced by the applicant as needed during the monitoring period.
4. Bi weekly (every other week) reports by the erosion control professional noted in the construction sequences shall be submitted to the Land Use Office throughout all construction phases. A rain gauge shall be installed on site and rainfall amounts recorded in the bi weekly erosion control reports.
5. At the time of the preconstruction meeting, construction managers shall deliver detailed and specific construction sequences to the enforcement officer and to the Commission’s consultant. These sequences should adhere to the approved sequences in the file and be augmented by more specific description and timing.
6. Any proposed change in the approved plans and/or supporting documents must be reviewed by the enforcement officer prior to implementation. The enforcement officer may authorize minor changes or reductions in the scope of regulated activities provided that any such changes shall be reported to the Commission immediately and further provided that the Commission may require a permit modification for such changes if it finds that they may have a previously unanticipated impact on wetlands and watercourses. Any substantial changes such as changes in location, enlargements, modifications to septic due to DEEP review, changes in the sequence of construction, or changes that may in any way impact wetlands and/or watercourses must be approved by the Commission prior to implementation.
7. During the demolition and construction, unstabilized or unvegetated site disturbance shall be limited to five (5) acres at any one time.
8. Regarding the routed discharge rates for Pond #1 and #2 for the 25 year storm and the rates used to calculate the outlet protection at these discharge points, the applicant shall revise the calculation as necessary and submit the revised calculations and plans to the Land Use Office and Commission’s professional consultant for review prior to the commencement of demolition and construction.
9. The outlet control details shall be revised to be consistent with the stormwater management report calculations provided on the final plan set.
10. The applicant shall prepare a minimum of three full plan sets incorporating all revisions and conditions of approval and submit them to the Land Use Office and to Land Tech for review prior to the commencement of demolition and construction. By Mr. Davis, seconded by Mr. LaMuniere, passed 5-0.

Mr. Wadelton adjourned the meeting at 7:30 p.m.

FILED SUBJECT TO APPROVAL

Respectfully submitted,

Janet M. Hill, Land Use Administrator