

ENVIRONMENTAL PROTECTION COMMISSION
REGULAR MEETING/PUBLIC HEARING
MINUTES
May 1, 2013
7:30 P.M.
Room 206, Town Hall

Chairman Riccardo called the meeting to order at 7:30 P.M

Commission Members Present: Vickie Riccardo, Wynne Shapiro, Alan Armstrong, Eric Joosten, Rick Rohr, and Keith Kearney

Staff: Jacobson

Court Reporter: Syat

Recorded by Channel 79

Ms. Riccardo called the first agenda item:

EPC-12-2013, John & Elizabeth Ferguson, 30 Plymouth Road, proposing new gravel driveway in an upland review area. The site is shown on Assessor's Map #57 as Lot 35.

This item was postponed to June 5 at the applicant's request.

Ms. Riccardo called the next agenda item:

EPC-14-2013, Estate of Beatrice Richards, et.al., 123 Five Mile River Road, proposing construction of two residences within an upland review area. The site is shown on Assessor's Map #67 as Lot #2.

Mr. Jacobson said a petition for a hearing was received. The Commission also considered a hearing to be in the public interest. Mr. Rohr made a motion to hold a public hearing on June 5. Mr. Armstrong seconded the motion and it passed 6-0.

The Commission discussed the need to hire an independent engineer at the applicant's expense. Mr. Jacobson reviewed the three estimates for the review and recommended hiring Joe Canas of Tighe & Bond. Mr. Kearney made a motion to retain Joe Canas. Ms. Shapiro seconded the motion and it passed 6-0.

Mr. Rohr asked for additional information regarding alternatives, backup data for the 40% gravel voids and more detail on the construction phasing.

Ms. Riccardo called the next agenda item:

EPC-15-2013, Urs & Amy Baertschi, 26 Stephanie Lane, proposing new house construction in an upland review area. The site is shown on Assessor's Map #8 as Lot #58.

The Commission discussed the need for a public hearing due to the potential for impacts from storm water. Mr. Rohr made a motion to schedule a public hearing for June 12. Mr. Joosten seconded the motion and it passed 6-0.

Ms. Riccardo called the next agenda item:

EPC-16-2013, Margaret C. Hand, 25 Brush Island Road, proposing new house and septic construction within an upland review area. The site is shown on Assessor's Map #56 as Lot #17.

The Commission discussed the potential impacts to Holly Pond. Mr. Joosten made a motion to schedule a public hearing for June 12.

Mr. Rohr asked if the houses would have basements, and if there would be sump pumps discharging groundwater.

Ms. Riccardo called the next agenda item:

EPC-17-2013, Amy Zabetakis, Esquire, on behalf of Hamilton & Amabel James, 50 Contentment Island Road, proposing grading in an upland review area associated with elevating an existing home. The site is shown on Assessor's Map #68 as Lot #22.

Ms. Riccardo said this application was withdrawn.

Ms. Riccardo called the next agenda item:

EPC-19-2013, Arlene & Curtis Butler, 106 Stephen Mather Road, proposing house addition, driveway expansion, swimming pool, and pool house in a regulated area and upland review area. The site is shown on Assessor's Map #1 as Lot #29.

The Commission discussed the disturbance in the regulated area and determined there may be a significant impact. Ms. Shapiro made a motion to hold a public hearing on June 12. Mr. Armstrong seconded the motion and it passed 6-0.

Ms. Riccardo asked the applicant to consider offering a conservation easement. Mr. Jacobson suggested re-locating the proposed mitigation area adjacent to the existing undisturbed wetland.

Ms. Riccardo called the next agenda item:

EPC-18-2013, Aaron & Elizabeth Hantman, 42 Maywood Road, proposing shed construction in an upland review area. The site is shown on Assessor's Map #12 as Lot #5.

Mr. Hantman said they are proposing a 12x 16 pre-fab shed within an existing lawn area.

Mr. Armstrong made a motion to approve the application. Mr. Joosten seconded the motion and it passed 6-0.

Ms. Riccardo called the first public hearing:

EPC-08-2013, Andrew & Melanie Wright, 5 Holly Lane, stone wall and fence construction in an upland review area. The site is shown on Assessor's Map #9 as Lot #147.

This hearing was immediately continued to June 12.

Ms. Riccardo called the next public hearing:

EPC-38-2012, Redniss & Mead, Inc., on behalf of Steven Payne, 5 Dogwood Lane, requesting a permit to retain existing drainage structures within an upland review area. The site is shown on Assessor's Map #64 as Lot #28. (Postponed from April 3)

Brian McMahon, P.E. represented the applicant. He introduced Mr. & Mrs. Payne. He reviewed the previous public hearing testimony and the drain constructed in the driveway. He said the rain garden has been altered and will need to be restored. He provided photos of the mandated rain garden installed by the original builder and said the area was converted to lawn and the pipes were extended through the wall. He said the third area of activity was the fill in the side yard and the retaining wall. He said the Payne's neighbor, Mrs. Berlet, perceives that the Payne's activities made drainage problems on her property worse. He said he disagrees with that. He said he disagrees with Mr. Gleason's submission regarding additional "unpermitted activities". He said that the Paynes are still willing to provide an additional curtain drain.

Mr. McMahon said he has met with Mrs. Berlet's engineer, Mr. Pugliese, twice on the site and they both witnessed the test pit. He said they confirmed that the roof drains are directed to the location of the removed rain garden. He said they agreed in the field to make the curtain drain deeper. He responded to the other items in Mr. Pugliese's letter. He said the Paynes are proposing to remove the curtain drain from the Tokeneke Road Assoc. property and relocate it higher on the driveway. He said they would not consider re-grading the driveway to drain over the slope and he said they are not increasing the impervious surface area and would not consider expanding the rain garden.

Mr. Rohr asked about responses to his questions regarding impacts on the wetland from the additional ground water and a description of the fill that was placed.

Mr. McMahon said he thinks the water will be a small amount relative to the overall watershed and will have no impact. He said the fill was a granular material. He said there was no evidence of septic effluent.

Mr. Payne said they made a mistake putting the drain on the Tokeneke property. He said they were not aware of the purpose of the rain garden. He said the fill and wall were placed to try and stop water from pouring off the property. He said the drain on the Berlet property is the lowest part of their properties.

Attorney Wilder Gleason represented Mrs. Berlet. He said the applicant has not addressed the swale on the Coats side of the property. Mr. Armstrong said he did not see how this swale is part of this application. Mr. Jacobson said the swale was not an EPC requirement.

Mr. Gleason said the EPC and P&Z decisions should be placed on the land records. He said there is no maintenance plan proposed for a replaced rain garden. He said the rain garden should be

located near the wetland. He said the source of the pipe on discharging on the Buchanan property may be from the basement.

Mr. Joosten said he would be concerned with removing existing vegetation in the upland area. He asked if the Belgian block curb is on the Tokeneke Road Assoc. property.

Mrs. Berlet showed a video of alleged drainage issues.

John Pugliese, P.E. reviewed his letter. He provided a sketch for another rain garden which he proposes for additional runoff. He submitted his calculation for the fill placed on the property. He said the Commission can consider activities outside their jurisdiction if there is an impact on wetlands.

Mr. Joosten asked if the clogged pipe on the Berlet property is a factor. Mr. Pugliese said it is a factor but not the primary cause of the problem.

Mr. Armstrong asked if the fill caused additional sheet flow. Mr. Pugliese said the sheet flow is the same.

Mr. Gleason said the Commission should take a more expansive view of their jurisdiction. He said the applicant did not provide a drainage analysis.

Mr. McMahon said they did not provide an analysis because they have nothing to compare to. He said the Paynes have not added any impervious surface; therefore there is no increase in runoff from the 2008 approval. He said the watershed to the Berlet property is much larger than just the Payne property. He asked if the capacity of the receiving drain has been determined. He said he does not believe the Paynes have caused Mrs. Berlet's problem. He said the Paynes have been cooperative. He said they were denied permission to go on the Berlet property. He said the original plans did not provide design details for the rain garden.

Ms. Riccardo asked if the implementation of the work on the southern edge of the property may have released groundwater. Mr. McMahon said the Paynes have said that portion of the property was always wet since they bought the property.

Ms. Riccardo asked his opinion on providing the additional rain garden. Mr. McMahon said the proposal essentially asks for an additional detention basin although the Paynes did not increase runoff.

Mr. Payne said the work they did on the basement was entirely interior and does not connect to the property's drainage system. He said the water that was on the Berlet property is not there since they cleaned the pipe.

Mr. Gleason said the groundwater has changed the Berlet property.

Mr. McMahon said the Paynes have agreed to do everything on the Pugliese sketch with the two exceptions, re-directing the driveway flow and the rain garden.

Mr. Joosten made a motion to close the public hearing. Mr. Rohr seconded the motion and it passed 6-0.

Ms. Riccardo called the next agenda item:

Flood & Erosion Control Board - discussion and update of Flood Mitigation Strategy Committee recommendations dated May 10, 2010.

The Commission discussed the progress on the recommendations. It was the consensus of the Commission that they should be advocates for an increase in DPW staff during the next budget process.

Ms. Riccardo called the next agenda item:

Discussion regarding electronic distribution of meeting materials:

First Selectman Stevenson has encouraged Darien's boards and commissions to use e-mail distribution of meeting materials and to post meeting materials on the Town's website when they are available for review. The Commission noted that the file materials for their applications include drawings and reports that are too large to send by e-mail. The Commission will send minutes and other communications electronically when possible and post them to the website.

Minutes of April 3

Ms. Shapiro made a motion to approve the minutes of March 6, as amended. Mr. Armstrong seconded the motion and it passed 6-0.

Mr., Joosten made a motion to adjourn. Mr. Kearney seconded the motion, and it passed 6-0. The meeting adjourned at 10:50 p.m.

Respectfully submitted,

Richard Jacobson
Environmental Protection Officer