

ENVIRONMENTAL PROTECTION COMMISSION
MEETING MINUTES
GENERAL MEETING AND PUBLIC HEARING
APRIL 19, 2006

Room 206, Town Hall

7:30 P.M.

The meeting was called to order at 7:30 P.M. Commission Members Present: Chairman Peter Hillman, Susan Cameron, Craig Flaherty, Reese Hutchison, Pete Kenyon, Ned Lewis, Ellen Kirby

Staff Present: Richard Jacobson

Court Reporter: Bonnie Syat

Minutes of March 1, 2006

The Commission discussed the minutes of March 1, 2006 and tabled them for corrections.

Discussion regarding the Darien High School Project, EPC-49-2001, 80 High School Lane.

Mr. Joe Canas of Tighe & Bond informed the Commission that he inspected the site today and that the silt fence was installed around the east side of the site. Two additional items needed to be addressed including hay bales to be extended near the Noroton Avenue entrance and the second construction entrance needed an anti-tracking pad. Ms. Cameron asked about the silt sacks. Mr. Canas said they will need cleaning in a couple of weeks. Mr. Flaherty asked about a schedule for final stabilization. Mr. Canas said they are currently re-doing the grading plans for the field and grading should begin in thirty days. They expect final stabilization toward fall. The Commission discussed the possibility that an artificial turf field may be substituted for the grass field. Mr. Flaherty said that a turf field produces more runoff than grass and less runoff than pavement. Mr. Canas said that the design will assume that the area is like a paved surface and they will provide storage for storm water. The Commission discussed concerns that the artificial turf field will create additional runoff. Mr. Hillman requested that the Commission's concerns be communicated to the Building Committee. Because a natural field was approved, a turf field will require additional review by the Commission. Mr. Canas will report back at the May 3rd meeting.

Mr. Hillman read the next agenda item.

EPC 11-2006, Charles & Brook McILvaine, 57 Nearwater Lane, proposing partial demolition of an existing residence, additions to the residence and driveway with associated development activities within the regulated area. The subject property is located on the west side Nearwater Lane approximately 500 feet north of the intersection of Nickerson Lane and Nearwater Lane and is shown on Tax Assessor's Map #52 as Lot #21.

ENVIRONMENTAL PROTECTION COMMISSION
MEETING MINUTES
GENERAL MEETING AND PUBLIC HEARING
APRIL 19, 2006
PAGE 2 of 6

Mr. Hillman made a motion to approve the application with conditions. The motion was seconded by Mr. Kenyon. The motion passed 4-0. Mr. Lewis, Ms. Cameron and Mr. Hutchison did not hear the application and abstained.

Mr. Hillman read the next agenda item.

EPC 16 - 2006, Salvatore and Jennifer Matera, 93 Mansfield Avenue, proposing drainage structures for new residence, retaining walls, filling, and wetland buffer restoration within a regulated area. The property is located on the west side of Mansfield Avenue approximately 100 feet south of the intersection of Roland Drive and Mansfield Avenue and is shown on Assessor's Map #17 as Lot #27.

A motion to approve the application and draft resolution was made by Mr. Flaherty. The motion was seconded by Mr. Kenyon. The motion passed 5 to 0. Ms. Cameron and Mr. Hutchison did not hear the application and abstained.

Mr. Hillman read the next agenda item.

EPC 19-2006, Bruce Hill, Esq. on behalf of Ian King, 78 Camp Avenue, proposing to restore an area of Town property previously disturbed and noticed as a violation. The work consists of removing topsoil and other materials and re-planting with native vegetation. The property is located on the north side of Camp Avenue approximately 600 feet east of the intersection of Camp Avenue and Hoyt Street and is shown on Assessor's Map #8 as Lot #275.

A motion to approve the application and the draft resolution was made by Mr. Kenyon and seconded by Mr. Lewis. A condition will be included that the property line be permanently demarcated with a fence or boulders. The motion to approve passed 5-0. Ms. Cameron and Mr. Hutchison did not hear the application and abstained.

Mr. Hillman read the next agenda item.

EPC-24-2006, Palmer and Julia Sparkman, 7 Tory Hole Road, Proposing an addition to an existing dwelling and related construction within a regulated area. The property is located on the north side of Tory Hole Road at the northwest corner of the intersection of Tory Hole Road and Delafield Island Road and is shown on Assessor's Map #70 as Lot #10.

Mr. Lewis recused himself on this application.

Mark Lebow from Seymour & Associates represented the applicant. He presented a revised survey showing scaled back plans for the house and reflecting a reduction in 207 square feet of impervious surface within the upland review area including removal of some of the asphalt driveway. Mr. Hillman asked what the closest point of the house is to the wetlands. Mr. Lebow said the existing

ENVIRONMENTAL PROTECTION COMMISSION
MEETING MINUTES
GENERAL MEETING AND PUBLIC HEARING
APRIL 19, 2006
PAGE 3 of 6

house is 26 feet to the wetland and the addition, will be 27 feet to the wetland. Ms. Cameron inquired whether the stone wall on Tory Hole Road was new. Mrs. Sparkman said that the wall was part stone and wood when they purchased the property and that they have made improvements to the wall. The Commission will include language in the approval requiring the applicant to notify appropriate authorities including the Delafield Island Association regarding the wall construction and the roads. There will also be a statement in the approval that the work on the existing structure was done without a permit but was in the nature of a repair. A motion to approve the application with stipulations was made by Mr. Kenyon. The motion was seconded by Chairman Hillman and passed 6-0. Mr. Lewis abstained.

Mr. Hillman read the next agenda item.

EPC-27-2006, Mr. and Mrs. Bryan Murphy, 21 Libby Lane, Proposing an addition to an existing dwelling and associated construction activity within a regulated area. The property is located on the east side of Libby lane approximately 400 feet north of the intersection of Middlesex Road and Libby Lane and is shown on Assessor's Map #9 as Lot # 60.

Brian Hughes, contractor, represented the applicant. Ms. Cameron said she had visited the site the day of the meeting and said there was grading which had occurred in the wetland. The Commission requested the applicant come to the next meeting and explain the landscaping work that has been done.

Mr. Hillman read the next agenda item.

EPC-28-2006, Kelly and Peter Frank, 45 Granaston Lane, Proposing to remove lawn area and invasive shrubs and re-plant within a regulated area. The property is located on the east side of Granaston Lane approximately 1000 feet south and west of the intersection of Granaston Lane and Brookside Road and is shown on Assessor's Map #15 as Lot #25

Mr. Frank represented the applicant. He said they hired Sarah McCool to do a planting plan to restore wetland area along the river. Mr. Flaherty asked about the area of the lawn which is currently on the property. Mr. Frank answered the lawn currently goes to the stone wall at the top of the river bank. Chairman Hillman made a motion to approve the application. Mr. Hutchison seconded the motion and the motion passed unanimously.

Mr. Hillman read the next agenda item.

EPC-5-2004 Peter and Patricia Daigle, 5 Royle Road., Requesting approval of modified rain garden design.

Peter Daigle, property owner, represented the applicant. The Commission requested further information including a plan which shows accurate dimensions of the rain garden. They also

ENVIRONMENTAL PROTECTION COMMISSION
MEETING MINUTES
GENERAL MEETING AND PUBLIC HEARING
APRIL 19, 2006
PAGE 4 of 6

requested further information from Dave Keating regarding the sequence of events for construction of the rain garden and the request for a plan revision.

Mr. Hillman read the next agenda item.

EPC 92-2005, William W. Seymour & Associates on behalf of Kent & Lisa Eppley, 20 Driftway Lane, proposing to construct a two-story garage and perform related site development activities within a regulated area. The subject property is located on the east side of Driftway Lane, approximately 200 feet northeast of its intersection with Tokeneke Road, and is shown on Assessor's Map #66 as Lot #121.

Chairman Hillman stated that he believes that there will be a significant impact from both a two bay garage as well as a three bay garage. He said he had drafted a dissent to the conditional approval. He said he feels the applicant should go back to the drawing board and that the applicant has shown a lack of respect for Tokeneke Brook. Chairman Hillman read his reasons for dissent into the record. Mr. Kenyon said that 14 feet of the house is currently in the regulated area and that it is not necessary to add more impervious surface in the regulated area. Ms. Cameron said that she appreciates the mitigation offered but has grave concerns about the permanence of the garage and storage space in an area which already has significant activity. She said she feels the two car garage will also have a significant impact on the regulated area.

Mr. Flaherty said he shares the Commission's concerns and lack of cooperation from the applicant. He said the Commission should consider what is the regulated activity, what is the impact and what is the mitigation. He said he is in favor of the two bay garage with the mitigation plan. He would rather have the automobiles covered to avoid wash-off from the cars. He said the storm water will not be concentrated once the lawn is established and the vegetative buffer is planted along Tokeneke Brook. Mr. Lewis said he believes the two bay garage and elimination of a bay moves the garage farther from the regulated area and will not have a significant impact. Mr. Kenyon said he favors the applicant pursuing a Zoning Board of Appeals' waiver to push the garage closer to the existing wall. Chairman Hillman said he is worried about the precedent which will be set by approving this application. He suggested that the Commission has the option of denying the application without prejudice. Mr. Flaherty said the decision should be based on the application record and the impacts rather than judging the proposed use. Chairman Hillman said he is confident that either opinion would be upheld in the courts.

Mr. Hutchison said he has a difficult time separating the applicant from the application and will abstain from voting. Mr. Flaherty made a motion to approve the draft resolution and to approve the application. The motion was seconded by Mr. Lewis. In favor, Mr. Lewis and Mr. Flaherty. Mr. Hillman, Ms. Kirby, Ms. Cameron and Mr. Kenyon were opposed. Mr. Hutchison abstained. Chairman Hillman made a motion to deny the application without prejudice. The motion was seconded by Ms. Cameron. Mr. Hillman, Ms. Kirby, Ms. Cameron and Mr. Kenyon were in favor. Mr. Flaherty and Mr. Lewis were opposed. Mr. Hutchison abstained. The motion passed 4 to 2. The Commission invited the applicant to come back with revised plans. The staff will draft a denial including comments from Chairman Hillman.

ENVIRONMENTAL PROTECTION COMMISSION
MEETING MINUTES
GENERAL MEETING AND PUBLIC HEARING
APRIL 19, 2006
PAGE 5 of 6

The Commission opened the public hearing at 9:15.

Mr. Hillman read the first hearing item.

EPC 21 -2006, Richard Windels, Jr., Friends of Goodwives River, Inc. on behalf of Joanne Nielsen, 34 Delafield Island Road, proposing to dredge approximately 0.35 acres of a portion of Nielsen Pond and Pony Pond and replant wetland vegetation. The property is located on the east side of Delafield Island Road approximately 1600 feet south of the intersection of Delafield Island Road and Locust Hill Road and is shown on Assessor's Map # 64 Lot #85.

Richard Windels represented the applicant. He said that there will be a change in plans and they are no longer using the vacuum boxes and vacuum pump to dredge the pond. He said there will be

using a more conventional method of dredging. Pony Pond will be drained and used as a sediment pond. Dredged material will be stockpiled adjacent to the driveway and blended with mulch and gypsum. Commission members questioned the applicant regarding the amount of material to be removed from the pond, how much material will be moved from the site and how much will be used on the site within the lawn area. The Commission requested additional information regarding the quantity of material to be used on site, quantity of material to be removed from site and the erosion and sediment controls. The public hearing was continued until May 3rd.

Mr. Hillman read the next hearing item.

EPC 2-2006, Laurie Stuek, 22 Driftway Lane, proposing demolition of the existing residence and construction of a replacement building and modified driveway and related site development activity within a regulated area. The property is located on the east side of Driftway Lane approximately 1300 feet south of Tokeneke Road and is shown on Assessor's Map #66 as Lot #122.

The Commission's consultant, Mr. Ryan Ebenhack from Hygenics, spoke regarding the mold issue and presented their report. Mr. Hillman asked him if he had had first hand involvement in the inspection of the property and the preparation of the report. Mr. Ebenhack answered yes. Mr. Ebenhack provided a summary of their methods' investigation and their report's conclusions. Mr. Hillman asked Mr. Ebenhack if he had a position on the cost of new construction versus the recommended abatement measures. Mr. Ebenhack said no. Chairman Hillman asked if the prior owners had taken any steps to prevent the mold. Mr. Ebenhack said they had installed moisture barriers in the basement. He also said there was some neglect including the rain gutters and down spouts.

Michael Fishman spoke on behalf of the applicant. He said structural engineer, David Seymour, had looked at the property and provided a report. He said they have also reviewed the report prepared by Hygenix. He said the ground level was already near the sill around much of the house and that the grade cannot be raised. He said there are other issues with the house than mold. The engineering report raises several concerns about the structure of the house. He said an exterior drain around the house would require excavation into the wetland to provide a discharge point. He

ENVIRONMENTAL PROTECTION COMMISSION
MEETING MINUTES
GENERAL MEETING AND PUBLIC HEARING
APRIL 19, 2006
PAGE 6 of 6

then discussed the site plan and the additional information which was provided to the Commission. He said there will be impacts whether the house is demolished or rehabilitated. The proposed distance between the regulated area and the house is 2 to 10 feet farther than the existing. Mr. Hillman questioned the septic system design and the number of bedrooms. Mr. McDougal said that the site was tested and could support 6 bedrooms but the system, as proposed, is designed for 4 bedrooms. Mr. Kenyon asked that a date be provided on the doctor's letter and requested information on more recent allergy tests.

The Commission continued the public hearing to May 3rd.

The meeting was adjourned at 11:10 p.m.

Respectfully submitted,

Richard B. Jacobson
Environmental Protection Officer

04192006min.doc