

ENVIRONMENTAL PROTECTION COMMISSION
REGULAR MEETING/PUBLIC HEARING
MINUTES

September 6, 2006

Wednesday, September 6, 2006 7:30 p.m. Room 206
Town Hall

Chairman Hillman called the meeting to order at 7:30 P.M. Commission Members Present: Peter Hillman, Susan Cameron, Ellen Kirby, Pete Kenyon, Reese Hutchison, Ned Lewis and Craig Flaherty (7:50).

Staff Present: Richard Jacobson

Court Reporter: Bonnie Syat

Mr. Hillman read the first agenda item:

EPC-51-2006 Anne Huck, 90 Inwood Road, proposing to dredge a 0.1 acre pond and related temporary disturbance within the upland review area.

Mr. Hillman recused himself for this item. Ms Cameron acted as Chairman.

Mrs. Huck represented herself. She said they have a shallow pond which is a dammed wetland which has silted in and is covered with algae. She said she does not want to use chemicals to control the weeds and algae. They are proposing to use a hydro-rake to create less disturbance. Ms. Cameron asked about the dredge spoil location which Ms. Huck indicated on the plan. Mr. Kenyon suggested a turbidity barrier to prevent sediment flowing downstream. Mr. Lewis asked about the quantity of material to be removed. Ms. Huck said 400 – 600 cubic yards. Mr. Lewis said it is the Commission's policy to support the restoration of ponds. Mr. Kenyon asked if there was any planting proposed. Ms. Huck said the pond footprint will remain the same and the edge is fairly wooded. Mr. Kenyon made a motion to approve with the stipulation that the Phragmites be controlled as much as possible. Mr. Hutchison seconded the motion and it passed 5-0.

Mr. Flaherty arrived at 7:50.

Mr. Hillman read the next agenda item.

EPC-52-2006 Charles Ziga, 5 Overbrook Lane, proposing to replace an existing deck with a patio, and repair and replace drainage pipes and related structures within the upland review area...

Mr. Flaherty recused himself for this item.

Mr. and Mrs. Ziga represented themselves. They described the proposed patio replacing the deck and the drainage structures to be repaired. A portion of the existing pipe is

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broken and must be replaced. They said all of the work will be done by hand. Mr. Hutchison made a motion to approve the application. Mr. Lewis seconded the motion and it passed 6-0.

Mr. Hillman read the next hearing item.

EPC-53-2006 Thomas and Debra Ritchie, 16 Stony Brook Road South, proposing to enlarge an existing patio within the upland review area.

Kate Throckmorton, Landscape Architect represented the applicant. She said the patio is within the regulated area but is in the existing lawn. The patio will be laid on stone to be somewhat pervious. They are proposing to remove some miscellaneous debris and replant an area that was slightly disturbed previously. An additional ornamental tree will be included. Ms. Cameron asked if they were removing lawn to install the plantings. Ms. Throckmorton said yes. Ms. Kirby asked if there will be any trees removed. Ms. Throckmorton answered no. Mr. Hutchison made a motion to approve the application. Ms. Cameron seconded the motion and it passed unanimously.

Mr. Hillman read the next agenda item.

EPC-54-2006 William Corcoran Jr., 327 Middlesex Road, proposing to construct a garage addition within the upland review area.

Kate Throckmorton, Landscape Architect represented the applicant. She said the applicant reviewed alternative locations outside the upland review area but they would all require extending the driveway. The proposed location uses a portion of the existing driveway. They are proposing planting an area along Stony Brook and a raingarden. Invasive Multiflora Rose will be removed in the lawn area. Mr. Hillman said that tree removal is typically done with a recommendation from an arborist. Ms. Throckmorton suggested it could be stipulated in an approval that an arborist submit a report on the trees. Mr. Hillman asked if the area to be covered is currently gravel. Ms. Throckmorton said yes. Mr. Flaherty asked if there were architectural plans. Ms. Throckmorton said they had submitted a sketch. Ms. Cameron asked if there would be a second story. Ms. Throckmorton said yes. Mr. Flaherty asked what the closest point to the wetland will be. Ms. Throckmorton said 12 feet. Mr. Lewis asked what the planned use for the second floor would be. Ms. Throckmorton said it would be storage with access from within the garage. Mr. Flaherty asked if the owners have reported experiencing flooding. Ms. Throckmorton said no. Ms. Cameron suggested they plant the whole wetland. Ms. Throckmorton said they would consider planting more of the area. Ms. Cameron made a motion to approve the application with the stipulation that the planting plan be augmented to include all of the lawn area in the wetland and an arborist's report to be submitted for the trees to be removed. The motion was seconded by Mr. Hutchison and it passed unanimously.

Mr. Hillman read the next agenda item.

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EPC-55-2006 Yung Ho and Young Ai Choi, 700 Hollow Tree Ridge Road, proposing to construct a garage addition within the upland review area.

Gary McIntyre, Architect, represented the applicant. He said they have provided a drawing of the trees on-site as requested. Mr. Hutchison asked how close the garage will be to the wetland. Mr. McIntire said 26.5 feet. Mr. Flaherty asked how many existing garage bays there are. Mr. McIntyre said two. Ms. Cameron asked if there would be a driveway to the garage bay doors. Mr. McIntyre said there will not be a driveway and the owner will drive on the lawn for the occasional time they use the garage doors. Ms. Cameron suggested there be a stipulation that there be no driveway. Mr. Kenyon said the use is more similar to a storage addition not a garage and suggested there should be a planting plan. Mr. Hillman asked if the roof leader could discharge aboveground to a raingarden. Mr. McIntyre said they would be willing to provide a raingarden. Mr. Kenyon said he was concerned about the garage in general and the potential for its future use. Mr. Hillman said the garage could significantly impact the wetland. Ms. Cameron asked if the building could be made smaller. Mr. McIntyre said there was no extra space. Mr. Flaherty asked if the house was on septic and if the Health Department had signed off. Mr. McIntyre said yes. Mr. Flaherty requested a planting plan, a rain garden design and an environmental assessment. Mr. Hillman suggested a public hearing if there is concern for the future use. Mr. Lewis asked if the applicant would be willing to place a deed restriction on the property. Mr. McIntyre said no. The Commission determined that in light of the potential significant impacts and unresolved questions that a public hearing will be required and scheduled the hearing for October 4, 2006.

Mr. Hillman read the next agenda item.

EPC-57-2006 Lisa Pendro, 39 Old Farm Road, proposing construction of house additions and related construction within the upland review area.

Mr. Flaherty recused himself on this item.

Susan Kiskin, P.E., represented the applicant. She said the applicants are proposing small additions and a small backup area in the upland review area. They will be installing wetland plantings and a rain garden. Mr. Kenyon made a motion to approve the application. The motion was seconded by Mr. Hutchison and passed 6-0.

Mr. Hillman read the next hearing item.

EPC-81-2004 Paul Saitta, 16 Arrowhead Way requesting 50% bond release.

Based on staff's recommendation, Mr. Hillman made a motion to approve the 50% release of the bond. Mr. Flaherty seconded the motion and it passed unanimously.

Mr. Hillman read the next agenda item.

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EPC-59-2006, Christian & Kathleen Browning, 17 Greenwood Avenue, proposing replacement of an existing residence and related construction within an upland review area.

Mark Lebow, of Seymour Associates, represented the applicant. The Commission requested additional information regarding stormwater management, plantings and the alternative of renovating the house. The Commission determined that a public hearing is in the public interest and scheduled it for October 4, 2006.

Mr. Hillman read the next hearing item.

EPC-60-2006, Robert F. Maslan, Jr., Esquire, 1014-1020 Boston Post Road, proposing construction of a commercial/residential building and related development activities within an upland review area.

Attorney Robert Maslan represented the applicant. The Commission determined that a public hearing is in the public interest and scheduled the hearing for October 4, 2006. Mr. Hutchison asked them to provide information on the age of the existing pipe.

Mr. Hillman read the next agenda item:

EPC-61-2006, Joseph and Maria Teresa Criscuolo, 95 Hoyt Street, proposing driveway construction within a regulated area.

The Commission determined that the activity may have a significant impact and that a public hearing is in the public interest. The hearing was scheduled for October 4, 2006.

Mr. Hillman read the next agenda item:

EPC-64-2006, Delafield Island Tax District, Sunswyk Road, Tory Hole Road, Redcoat Pass, and Morley Lane, proposing maintenance and enhancement of drainage systems.

Mr. Lewis recused himself on this item. Mr. Hillman said that he and Mr. Batty are old friends but he does not have a conflict of interest. Ms. Cameron said she has done work for Mr. Batty but also feels she can be impartial.

Todd Ritchie of Stearns and Wheler, and William Batty, President of the Delafield Island Association represented the applicant. The Commission requested additional information including an overall plan of the district showing the wetlands and the work areas, a construction sequence, sediment disposal areas and a plan for invasive species removal. The Commission will also require authorization letters from the individual property owners.

The Commission determined that a hearing would be in the public interest and scheduled the hearing for October 4, 2006.

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Mr. Hillman read the next agenda item.

EPC-58-2006, Town of Darien Department of Public Works, 1723 Boston Post Road, proposing replacement and enlargement of a sewer force main within an upland review area.

Darren Oustafine, Assistant Director of Public Works, represented the applicant. Mr. Kenyon requested a site plan at a larger scale. He said the project involves a major thoroughfare and the public may be interested. Ms. Cameron asked for a street sweeping schedule. The Commission determined that a public hearing would be in the public interest and scheduled the hearing for October 4, 2006.

Mr. Hillman made a motion to add the following item to the agenda and approve a request to modify the stone wall and terrace construction: EPC-3-2006 Christopher and Debra Seiter, 459 Mansfield Avenue. The motion was seconded by Mr. Flaherty and passed unanimously.

Mr. Hillman read the next agenda item.

EPC-112-2004, Douglas & Lynne Curtis, 10 Clock's Lane, proposing amendment to permit to revise the house footprint within an upland review area.

Mr. Curtis represented himself. He said he is requesting a modification of the house footprint. He said there may need to be a drainage pipe either over the driveway or through it. He said it should flow by gravity but it may need to be pumped. Ms. Cameron made a motion to approve the modification with the stipulation that the drainage be approved by staff. Mr. Flaherty seconded the motion and it passed unanimously.

Mr. Hillman read the next agenda item.

EPC-66-2006, Paul and Elizabeth Brunner, 5 Hummingbird Lane, proposing to dredge a pond and landscape within the upland review area.

Richard Windels represented the applicant. He said they plan to use a hydraulic dredge to remove the material. He said the material will be mixed on site. Some will be used over the lawn area and some will be taken off- site. Ms. Cameron made a motion to approve. The motion was seconded by Mr. Hutchison and passed unanimously.

Mr. Hillman read the first public hearing item:

EPC-56-2006 Charles Parker and Jennifer Keef Parker, 84 Camp Avenue, proposing to complete restoration of a cleared wetland area.

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Michael Fishman of Stearns and Wheeler represented the applicant. Mr. Hillman asked Mr. Parker when he purchased the home and to explain how the violation happened. Mr. Parker said they purchased the home in 2005 and were new to Darien and were unaware of the wetlands on the property. He provided the name of his attorney, the seller's attorney and the real estate agent. Mr. Hillman said the applicant was blameless and there was a breakdown in the system. Mr. Hutchison said there is no requirement for disclosure of wetlands on the real estate disclosure form and it would take a court case to change it. Mr. Hillman said the proposed restoration would enhance the property.

Mr. Hillman made a motion to close the public hearing. Mr. Hutchison seconded the motion and it passed unanimously. Mr. Hillman made a motion to approve the application with the stipulation that a 2,000.00 bond be posted for two growing seasons with the possibility of 50% release after one season. Mr. Hutchison seconded the motion and it passed unanimously.

At this time Mr. Hillman announced that, due to time constraints, the following items would be continued to October 4, 2006.

EPC-62-2006, Sandra Kirchoff, 5 Seagate Road, proposing landscaping, removal of invasive species, and planting native species within a wetland and upland review area.

EPC-63-2006, David Mordy, 33 St. Nichols Road, proposing installation of water and sewer connections within a regulated area.

Ox Ridge Hunt Club-512 Middlesex Road requesting permission to replace topsoil within horse paddocks as a permitted farming or agricultural use (section 4.1.a).

EPC-30-2006 Jeffery Guice 36 Arrowhead Way- requesting bond release

EPC-65-2006, David and Jane Ott, 83 Delafield Island Road, proposing landscaping and stone wall repairs within an upland review area.

EPC-49-2006, Kent and Lisa Eppley, 20 Driftway Lane, proposing to construct a two bay garage within the upland review 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. (public hearing closed 8/24/06.)

EPC-47-2006, James and Margaret Batson, 26 Old Oak Road, proposing demolition of an existing residence and construction of a new residence within the upland review area.

Mr. Hillman read the next hearing item:

EPC-46-2006, Darien Board of Education, 80 High School Lane, proposing to convert a natural turf baseball field to a synthetic turf field within the upland review area.
(continued from August 4).

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Joe Canas of Tighe and Bond, Paul Engemann, Director of Facilities and Construction and Paul Voight, Field Committee Member represented the applicant.

Mr. Hillman asked if the applicant had investigated the old basin catchment area for possible use. Mr. Canas said the basin would be overtopped in less than a 50 year storm. He said they looked at replacing the pipe but the pond still overtopped. They are proposing to enhance the plantings within the basin, remove invasive species and remove sediment and plant the perimeter. Mr. Canas reviewed the construction sequencing and described the sediment trap which was enlarged and will temporarily encroach onto the field and be partially filled after a portion of the field is stabilized.

Mr. Jacobson described a conversation with the Simsbury Wetland Officer regarding some of the rubberized pellets which floated to the surface during a storm. The officer said it occurred during a significant flood where the field was completely under water for a period of time. The pellets were contained within a parking lot and did not enter the wetland. Mr. Canas said it would be extremely unlikely that this could happen with this proposal. Mr. Hillman asked about the proposed conduits under the field. Mr. Engemann said the conduits are 4-6" sleeves for future activities. John Kellaheer, Athletic Director, said he visited Simsbury and was told that flooding of the field was the issue. Ms. Cameron asked if the rubber pellets would float. Mr. Flaherty said it will not if it is cryogenically prepared. Mr. Kellaheer said it will be cryogenically prepared rubber.

Mrs. Russell asked if the project is approved will Tighe & Bond be liable if there is flooding. Mr. Hillman said the applicant will be responsible if there are problems. If there are errors made, the Board of Education could seek redress from any consultant.

There were no other members of the public who wished to speak. Ms. Cameron made a motion to close the public hearing. The motion was seconded by Mr. Lewis and passed unanimously.

The Commission proceeded to deliberate on this application. Mr. Hillman thanked the applicant and the public for their participation. He said it was one of the most complex applications the Commission has seen. The application is also emotionally charged because of the flooding concerns of the neighbors. He said the project, if analyzed under the EPC regulations, will not worsen the existing situation. It is possible it will improve the flooding situation. He said the lack of any pesticide use is positive aspect. There will need to be rigid inspection, monitoring and reporting.

Mr. Hutchison said the experts have addressed the concerns of the public and the Commission. The project will need to be managed more appropriately than the high school project.

Mr. Flaherty said the Commission listened carefully to the public and the Commission members have walked the site and given careful consideration to the neighbors which

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must be weighed against the expert testimony. He said the project was improved as a result of the public comment. The project will be a quick project; therefore a representative from the Board of Education or the site monitor should be at every meeting during the construction period. He said the site monitor should be reporting frequently.

Mr. Lewis suggested the reports on completion of the erosion controls could be tied to payments to the contractor. He said he is persuaded by the analysis of the field technology and the project will be an enhancement.

Ms. Cameron said she relies on the testimony of Joe Canas and thinks it is a good project. She would like to see a maintenance plan for future dredging.

Mr. Flaherty said the no build alternative is not acceptable because the field is always unplayable. He said fixing the existing field is also not a good alternative. He suggested a story pole for the basin to monitor the need for maintenance.

Mr. Kenyon thanked the applicant for providing additional information. He said the high school would not have been built under current regulations. The artificial field will be more environmentally friendly. He said he accepts the expert testimony that the problems will not be made worse.

Ms. Kirby said she felt much more informed than when the football field was proposed. The neighbors provided helpful information to make the project better.

Mr. Hillman asked staff to prepare a draft resolution including inspections on a weekly basis and after $\frac{1}{4}$ inch of rain.

Minutes of April 5, 2006

The Commission reviewed the minutes of April 5, 2006 and made minor corrections. Mr. Kenyon made a motion to approve the minutes as amended. Mr. Hillman seconded the motion and it passed 6-0. Ms. Cameron abstained.

Minutes of May 3, 2006

The Commission reviewed the minutes of May 3, 2006 and made minor corrections. Mr. Hillman made a motion to approve the minutes as amended. Ms. Cameron seconded the motion and it passed unanimously.

Minutes of June 7, 2006.

The Commission reviewed the minutes of June 7, 2006 and made minor corrections. Mr. Lewis made a motion to approve the minutes as amended. Mr. Hillman seconded the motion and it passed unanimously.

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Ms. Cameron informed the Commission that the Lunn Dock application was withdrawn. The DEP determined that the property is subject to deed restrictions. They closed the permit application unless the deed restrictions are changed.

Mr. Hillman made a motion to adjourn. Mr. Flaherty seconded the motion and it passed unanimously. The meeting adjourned at 10:35 p.m.

Respectfully submitted,

Richard B. Jacobson
Environmental Protection Officer

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