

ENVIRONMENTAL PROTECTION COMMISSION
GENERAL MEETING & PUBLIC HEARING
MEETING MINUTES
JULY 7, 2004

Commission Members Present: Reese Hutchison, Susan Cameron, Robert E. Kenyon, Ellen Kirby, and Edwin Lewis

Commission Staff Present: Nancy Sarner

Court Monitor: Bonnie Syat

Application #EPC-44-2004 for John & Erin Denson, 84 Fitch Avenue was withdrawn, and General Meeting item Application #EPC-56-2004 for Barbara Z. Geraghty, 12 Libby Lane, and Public Hearing item Application #EPC-51-2004 for Elizabeth Stanley-Brown & Peter G. Horan, 7 Fresh Meadows Lane, were postponed.

General Meeting:

Acting Chair Reese Hutchison read the following agenda item:

EPC-57-2004, Adrian M. & Eleanor G. Massie, 5 Overbrook Lane, proposing the installation of a 330-gallon heating oil tank on a new concrete slab to replace an approved temporary tank, and perform related site development activities within a regulated area. The property is located on the south side of Overbrook Lane approximately 422 feet west of the intersection of Overbrook Lane and Brookside Road, shown on Tax Assessor's Map #14 as Lot #40.

It was noted that the Commission reviewed the emergency installation of a temporary oil tank during a previous meeting. Adrian Massie explained that the removal of the underground storage tank went well, and that the soil sample results were good. He said that the area has been reseeded and stabilized. Eleanor Massie reported that the tank was twelve years old.

Ms. Cameron clarified that the tank for the main residence would be installed in the area of the temporary tank, on the left side of the house, and that the tank for the accessory structure would be located within the garage.

Upon further discussion of the materials and plans submitted, the following motion was made: that the Commission approve Wetland Permit Application #EPC-57-2004, as shown on the location sketch for the heating oil tank overlaid on the plan entitled "Site Development Plan- Additions and Alterations for Residence, 5 Overbrook Lane, Prepared for Adrian & Eleanor Massie" by Roger Bartels, A.I.A., Architects, (last revised 5-14-91), received by the Planning and Zoning Office on June 7, 2004. The motion was made by Ms. Cameron, seconded by Mr. Hutchison, and unanimously approved.

Acting Chair Reese Hutchison read the following agenda item:

EPC-58-2004, David Mangini & Casey Elliot, 40 Goodwives River Road, proposing a rear patio, driveway, retaining walls, fill & regrading, stormwater galleries, primary septic system and reserve area, and plantings, and perform related site development activities within a regulated area. The proposed residence is located outside 100' setback for Goodwives River and 50' setback for inland wetlands. The property is located on the east side of Goodwives River Road approximately 1,200 feet southeast of the intersection of Goodwives River Road and Old King Highway South, shown on Tax Assessor's Map #60 as Lot #106-A.

Donald Strait, L.A., of Grumman Engineering presented the application to the Commission. Acting Chair Reese Hutchison recommended that a public hearing be scheduled for the review of the application.

Mr. Kenyon noted that the property is sloped. Mr. Strait said that the residence would be constructed in a level area of the property. Mr. Hutchison said the area is sloped toward the roadway and asked how the driveway would be designed. Mr. Strait replied that two small walls would be installed, as shown on the plans. In response to a question, Mr. Strait said that they did not anticipate that they would find ledge in the construction area.

Glenn Barnard, Architect, addressed the Commission on behalf of the applicants. Mr. Barnard said that they wanted to maintain a similar look to the existing house on the site, and therefore, the details of the proposed residence mirrored those of the existing cottage. He said that the driveway would rise at a half of a percent grade within the first 30', and then slope up towards the residence. He said that the garage would be located under the structure to mirror the cottage and to be hidden from the street.

Ms. Cameron noted there was conflicting information regarding the number of bedrooms in the application materials, and asked if the residence would have five or six bedrooms. Atty. Cramer replied that the proposed structure would be a five-bedroom residence.

Ms. Cameron inquired about the possible alternative of locating the septic system to the rear of the residence, and the difference in impact posed to the wetlands versus to Gorham's Pond. She said that she would like to see the health approval. Ms. Sarner reported that the no health approval has been issued, but that Mr. Proto of the Health Department verified that the proposed septic and reserve areas are designed for a five-bedroom residence.

Mr. Hutchison recommended that the septic system for the cottage be shown on the plan. He asked if there were any encumbrances from the Tweedy property.

Mr. Strait explained that the primary and reserve septic areas would be over 50' from any watercourse, in accordance with the health code.

Ms. Cameron asked if there were any adjacent catch basins not shown on the proposed plan, noting that they may need to be sealed. She asked again that the applicants consider the alternative of locating the primary and reserve septic areas to the rear of the residence, and asked if the front or the rear yard location was better. Mr. Hutchison asked where the reserve area would be located. Mr. Strait replied that it would be in the front area to the side of the primary system.

Ms. Cameron requested that the trees to be removed be marked on the property, and a list of the trees to be removed be provided. Mr. Kenyon stated that 13 significant size trees would be removed. Ms. Cameron asked if a planting plan was proposed. Mr. Strait replied that buffer remediation plantings were shown on the proposed plan. Ms. Cameron recommended that the plan include replacement trees for the 13 significant size trees to be lost.

Mr. Hutchison stated that although it is a beautiful property, but is difficult site because of the regulatory constraints. Ms. Cameron explained that a denial of the proposal would not be a taking since the property already has a house. Mr. Hutchison and Ms. Cameron recommended that an environmental impact study be conducted. Ms. Cameron recommended that alternatives be considered, such as a smaller residence with smaller garage. Mr. Barnard explained that the house was designed with the garage on the basement level. He said that placing the driveway on the right side of the property required a +20 retaining wall along the property line or a significant cut in grade. He said that they might break up the southern retaining wall into a series of retaining walls. Ms. Cameron suggested that the front circular driveway loop be eliminated to save trees. Mr. Barnard noted that the driveway could be gravel. Mr. Hutchison cautioned that the circular driveway loop might be needed to improve sight lines. Mr. Barnard said that the cars would enter on the right side of the driveway with the lower pitch and it would lessen the severity of the slope. He reported that the driveway was pulled away from the stream but the tighter area created a steeper grade.

Ms. Cameron opinioned that more review of alternatives should be shown that would save more trees, decrease impervious areas, and protect the wetlands and Gorham's Pond. She recommended that the applicants consider a smaller house. She recommended that a public hearing be held for the application on August 4, 2004. Atty. Cramer said that there has already been an attempt to minimize the development, and he feels that the proposed design is environmentally sound yet attractive. Mr. Hutchison explained that the subject property is not an old lot, and the applicants are now requesting two residences instead of one. He noted, in the context of alternatives, that although the cottage is attractive, it could be torn down.

Mr. Strait asked if the Commission wanted to see any changes for the buffer planting plan. Ms. Cameron recommended that a mix of shrubs be incorporated into the plan, such as Clethera, Highbush Blueberry, Amelanchier, and Viburnum. Mr. Strait said that he usually installs plantings in groupings, and would include ten of each species.

Mr. Hutchison recommended that the applicants make a case for the new residence. Mr. Strait said that the plan shows on-site retention, and roof leaders and driveway drainage. He explained that roof runoff, which is clean water, is sometimes directed to the wetlands to maintain water flow. Ms. Cameron cautioned that they would need to be careful of erosion. Mr. Strait suggested that a level spreader be installed.

Ms. Cameron requested that an environmental impact study be provided. Mr. Hutchison asked that the septic system for the cottage be shown on the plans, and that the applicants think about what type of work needs to be done on the cottage. Mr. Strait said that they wondered if the gazebo over the watercourse should be removed. Mr. Barnard suggested that it could stay because it was set upon blocks. Mr. Kenyon asked about the existing footbridges. Mr. Strait replied that the informal footbridges were actually large stones placed across the stream.

Mr. Hutchison noted that there is a patch of bamboo near the cottage. Ms. Cameron said that the bamboo is an unfavorable species because it spreads and is hard to get rid of. Mr. Strait noted that it has not spread on the property yet.

It was the meeting consensus that a Public Hearing be scheduled for the August 4, 2004 EPC meeting.

Public Hearing:

Acting Chair Reese Hutchison read the following agenda item:

EPC-54-2004, Friends of Goodwives River, Katy's Pond in the Goodwives River, proposing pond dredging, installation of a stone weir, repair of a stone retaining wall, fill activity, habitat restoration, and perform related site development activities within regulated areas. Katy's Pond is located on the northwest corner of the intersection of Brookside Road and Meadowbrook Lane, shown on Tax Assessor's Map #15 as Lots #34, 35, 73, 74, 75 & 76.

Tom DeSantos of Fuss & O'Neill, Inc. and Richard Windels, President of the Friends of Goodwives River (FOGR) presented the application to the Commission.

Ms. Cameron asked how different the 2004 proposal was from the 2003 approved plan. Mr. DeSantos replied that there was no change to the work, and reported that the project received a verbal approval from the CT DEP, and a sign off from the Army Corps of Engineers. He added that the only change is the request by the contractor to remove a 12' tree from within the access area.

Mr. Hutchison requested that Mr. DeSantos summarize the dredging of the ponds approved under #EPC-66-2003 for Goodwives River. Mr. DeSantos explained that Katy's Pond is one of the four ponds along Goodwives River that was previously reviewed by the Commission. He said that Katy's Pond is located on the west side of Brookside Road, and would be accessed across the Walker's yard, which is where the tree would be removed. Mr. DeSantos then outlined the dredging process: A 70' dragline would be used to do the dredging activity. The contractor would first create a channel to separate flow from the rest of the pond. The channel would be able to convey a 2-year storm. The stone weir would be installed. Once the open pond area is dredged, the contractor would relocate the channel to the other side of the pond and begin dredging the rest of the pond. Plantings are shown on the proposed plan. Silt fencing would be installed surround the stockpile, and hay bales would be placed as shown on the plan. The Katy's Pond dam would be repaired.

Mr. Hutchison asked about the anticipated benefits of dredging the pond, beyond the improvement to Katy's Pond and wildlife habitat.

Mr. Windels, President of the Friends of Goodwives River, explained that there is a volunteer effort to stock frogs. He said that the construction access would be located off of the Walker property. He explained that another difference from the 2003 approved plan is the relocation of the stockpile area to an area outside of the pond. Mr. Windels explained that the 12' tree would be removed because it is in the way of the swing of the excavator. Ms. Cameron said that she looked at the tree, and felt that its removal would not pose an impact nor require replacement.

Mr. DeSantos said that the main benefit of the project would be the cleaning of the pond. Mr. Hutchison asked for a further explanation. Mr. DeSantos replied that if the pond is full of sediments, its ability to function as a sediment basin becomes limited, allowing silts and sediments to pass downstream, and its flood storage capacity of the pond would be diminished. Mr. Windels added that another beneficial aspect of the project is that after the repair of the Katy's Pond dam, the pond would better retain water. He reported that that Mr. Walker is the Treasurer of the Friends of Goodwives River and a member of Trout Unlimited. Mr. DeSantos said that the pond would be dredged approximately 5' deep, which is the approximate depth to hard bottom. He explained that the Connecticut DEP does not want the dredging to go deeper than the hard bottom. Mr. Windels said that he hopes that Hope Pond has a similar hard bottom, and they would dredge to that level to get as much depth as possible.

Ms. Cameron asked where wildlife specialist Rich Snarski spotted otters. Mr. Windels was not certain, and said that Mr. Snarski selected the wetland vegetation for the wildlife habitat/restoration areas.

Mr. Hutchison asked about the anticipated time frame for the work. Mr. Windels said that the work would take approximately 2 to 3 weeks, or 10 to 15 working days, with the exception of holidays, rain and other delays. He added that the work would begin right after the Hope Pond dredging is completed.

Ms. Kirby inquired if access is only proposed for the western side of the pond. Mr. DeSantos replied that it is and that the excavator could reach the pond from that area.

Mr. Hutchison reiterated that the Katy's Pond dredging was part of the last year's approval for the Goodwives River dredging project (#EPC-66-2004), with the exception of the removal of one tree from the accessway.

Mr. Hutchison closed the hearing for #EPC-54-2004, and read the following agenda item:

EPC-55-2004, Friends of Goodwives River, Upton Pond in the Goodwives River, proposing pond dredging, installation of a stone weir, repair of a stone retaining wall, fill activity, habitat restoration, and perform related site development activities within regulated areas. Upton Pond is located on the west side of Brushy Hill Road approximately 725 feet south of the intersection of Andrews Drive and Brushy Hill Road, shown on Tax Assessor's Map #63 as Lots #67 & 68.

Tom DeSantos of Fuss & O'Neill, Inc. and Richard Windels, President of the Friends of Goodwives River (FOGR) presented the application to the Commission.

Mr. DeSantos reviewed the project proposal. Approximately 1,000 cubic yards of sediments would be removed, some of which is protruding above the water line. The dam would be repaired. A wildlife habitat area would be created. The excavator would have a 70' swing line, and the dredging operation would be similar to that discussed under the Katy's Pond dredging project (#EPC-54-2004). A diversion channel would be installed along one side of the pond, and the remaining open pond area would be dredged. The channel would then be switched to the other side to complete the dredging. Mr. DeSantos noted that the pond is no longer owned by the Uptons, but by new property owners, the Careys.

Mr. Hutchison asked if the proposed habitat/restoration area was the same as proposed last year (#EPC-66-2003). Mr. DeSantos replied that it is, and that the difference from the previous approval is that the dam has been shifted over. Mr. Windels said that they might use a smaller dragline, and might be able to complete the work within 10 days, but he anticipates it would take longer in order to plan for rain and other delays.

Mr. Hutchison confirmed that the work sequence that was previously approved by the Commission under Permit #EPC-66-2003 has been proposed, which would begin with the dredging of the northern-most pond than move downstream toward Upper Pond. Mr. Windels said that the ponds north of Interstate-95 contain organic materials while the ponds south of the highway contain sand and contaminated sediments. He said that they have found a place to take the dredged materials. He said that the sediments found in Upton Pond are similar to those found in Upper Pond. He explained that Upton Pond serves as a catch basin for Upper Pond, as Upper Pond serves as a catch basin for Gorham's Pond. He added that Upton Pond is easier to clean than Upper Pond.

Mr. Lewis asked when FOGR would anticipate that they would need to re-dredge Upton Pond. Mr. DeSantos replied that sediment forebay would help capture sediments and would forestall the dredging for 5 to 10 years.

Mr. Windels said he would meet with CT DOT environmental and maintenance group regarding the ongoing battle at the Purple Heart Bridge. He explained that the area beneath the bridge had been filled with sediments from other towns, and a notice of violation was sent to the CT DOT from the CT DEP.

Mr. Lewis asked if the pond had been dredged in the past. Mr. Windels replied that Upton Pond had been previously dredged and the dam repaired, but he was not certain to when. He said that the Upper Pond has not been dredged, and that Hope Pond was dredged in 1990, which is commemorated by plaque on the roadway bridge. He said that, at that time, the existing forebay was installed, but was not properly constructed and washed away approximately nine months later.

Ms. Cameron asked if anyone from the public wished to speak regarding the application. Having no response, it was the meeting consensus that the public hearing for #EPC-55-2004 be closed.

Acting Chair Reese Hutchison read the following agenda item:

EPC-50-2004, Janice A. Mahaney, 26 Shipway Road, proposing the construction of a single-family residence, installation of a driveway, and perform related site development activities within a regulated area. The property is located on the north side of Shipway Road approximately 260 feet east of the intersection of Shipway Road and Plymouth Road, shown on Tax Assessor's Map #57 as Lot #43.

Atty. Kathryn Pasternak presented the application on behalf of the Mahaneys. Ms. Pasternak explained that the 2.11-acre parcel has an unusual configuration. She said that the previous residence had been demolished. She reported that in 2001, under EPC-51-2001, the EPC approved the demolition and reconstruction of a residence, and reviewed the 2001 approval. She said that the previous owners never moved forward with the project. She said that at their June

2, 2004 meeting, the Zoning Board of Appeals granted a variance for the project. She said that the current plan differs and improves upon the previously approved plan because the structure would be 80' from the Mean High Water in lieu of the approved 59', is 500 square feet smaller, and does not include the construction of a swimming pool. She said that they would eliminate the septic and connect to the sewer. She said that the Mahaneys have the support of their neighbors, submitted a letter with signatures, noting that one neighbor was unavailable to sign the letter.

Mr. Ferlow, L.A. and W.L.S., addressed the Commission. Ms. Sarner noted that not all of the wetlands and setback areas have been shown on the proposed plan. Mr. Ferlow said that the wetlands are shown but had not been highlighted, and indicated the northwestern and southern wetland areas. He said that all of the work, with the possible exception of stockpiling, would be located outside the 50' setback for the southern wetland area. He said that there are two types of wetlands on the property: tidal wetlands along the river and inland wetlands. He said that the tidal wetlands interface with the freshwater wetlands but remain tidal because of the vegetation type. He said that they are not high quality wetlands because of the amount of Phragmites. He said that the wetlands near the driveway contain Honeysuckle, Phragmites, European Birch, Bittersweet, Multiflora Rose, Crab Apple and Red Cedar. He noted that the Honeysuckle, Bittersweet, Phragmites and Multiflora Rose are invasive species.

Mr. Ferlow explained that the new residence would be constructed within the area of the former development. He said that the southern wetland is not wooded, and reviewed photographs from his report. He explained that the area has been modified by fill and disturbance, and that its elevation is high enough that it is not classified as tidal wetlands.

Mr. Ferlow reviewed that the proposed plan. The existing driveway would be removed and a new driveway would be installed. The garage, house and patio would be set in the middle of the property, to create the greatest setbacks from the tidal and southern inland wetlands. The lawned and landscaped land would continue to be maintained. The increase in grade at the house would pitch approximately 1' to 1 1/2' away from the residence. They would maintain the ornamental landscaping and minimize disturbance to the wetlands.

Mr. Ferlow reviewed the proposed sediment and erosion control plan. He explained that the site would be ringed with silt fencing. An anti-tracking pad would be installed at the driveway remaining portion and use remaining driveway for construction. The stockpile would be located north and south of the new house. Mr. Ferlow reported that he feels that the impact would be minimal with the use of proper sediment and erosion controls.

Ms. Cameron noted that the driveway had been paved without prior approval, and asked Mr. Ferlow to compare paved areas versus gravel. Mr. Ferlow replied that gravel is difficult to maintain on a slope because the materials would move, and on flat area because of normal residential activity. He said that after a gravel driveway is installed, it is ±60 percent pervious, but over time, as soon as the first year, dust and compression make the area move impervious. He said that the gravel driveway could be maintained by replacing gravel and raking it back into the driveway area, and that it does offer some protection from pollutants and sediments. He said that paved area for this site could be okay because there is a good vegetated buffer between the driveway and pond, which he thought would provide the best filter to stop pollutants within the first foot or two. He explained that since the driveway has been paved, it could cause greater

disturbance. Ms. Cameron said that she heard both sides of the argument, and has been told that pavement is better because gravel becomes impervious over time. Mr. Hutchison noted that paved area poses impact of increasing temperature of runoff. Mr. Ferlow said that it would be a toss of a coin to which is better, and that he did not see the benefit of removing the paved driveway. Ms. Cameron asked if the addition of a Belgium block curb would minimize impact. Mr. Ferlow replied that it would depend on how the curb was installed. He explained that if the curb is raised, it could be too high that salamanders could not cross it. He said that silts collected by the curb edge would flow into the wetlands through the joint openings, and that at commercial sites, curbs are areas to be cleaned. He said that he would not rely on the curb to retain gravel and its installation would disturb of tree roots and vegetation from the trenching activity. Mr. Lewis said that the grade is level. Mr. Ferlow said the new driveway would pitch away from the garage, and would be paved.

Mr. Hutchison recommended that silt fence should be installed along the driveway near the pond area. Mr. Ferlow said that since silt fencing must be buried, he recommended the use of hay bales set at the edge of pavement. He cautioned that if set in too tightly, it would not allow water through. Ms. Cameron noted that she did not see any anti-tracking pad proposed, and that if used, it would need to be fluffed, or maintained, regularly or it would be useless. She expressed concern that mud would runoff into the wetlands located to either side of the driveway. Mr. Ferlow said that he would include within a modified plan the use of sediment and erosion controls along the driveway.

After being recognized by the Acting Chair, Marsha Dumond, neighbor, spoke in support of the application.

It was the meeting consensus that the Public Hearing be closed.

The Application for EPC-51-2004, Elizabeth Stanley-Brown & Peter G. Horan, 7 Fresh Meadows Lane had been postponed.

General Meeting and other business resumed at the close of the Public Hearing.

Acting Chair Reese Hutchison read the following agenda item:

Possible Discussion and Decision for EPC-41-2004, Robert & Debra Lee, 8 North Road, requesting a determination of regulatory authority, and proposing the demolition and reconstruction of a single-family residence, patio, regrading and fill, installation of a septic system, and perform related site development activities within a regulated area. The property is located on the east side of North Road approximately 375 feet northeast of the intersection of North Road and Butlers Island Road, shown on Tax Assessor's Map #67 as Lot #74.

Upon discussion and consideration of the application file, the following resolution was adopted:

TOWN OF DARIEN
ENVIRONMENTAL PROTECTION COMMISSION
PERMIT TO CONDUCT A REGULATED ACTIVITY

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EFFECTIVE DATE: JULY 7, 2004
EXPIRATION DATE: JULY 7, 2009

Application Number: EPC-41-2004

Applicant's Name and Address: Robert & Debra W. Lee
4 Homewood Lane
Darien, CT 06820

Property Address of Proposed Activity: 8 North Road
Darien, CT 06820

Name and Address of Applicant's Representative: Wilder G. Gleason, Esq.
Gleason, Hill & Ambrette, LLC
23 Old Kings Highway South
Darien, CT 06820

Proposed Activity: Proposing the demolition and reconstruction of a single-family residence, patio, regrading and fill, installation of a septic system, and perform related site development activities within a regulated area

Shown on Tax Assessor's Map #67 as Lot #74.

The Environmental Protection Commission has considered the application with due regard to the matters enumerated in Section 21a-41 of the Connecticut General Statutes as amended and in accordance with Section 10 of the Inland Wetlands and Watercourses Regulations of the Town of Darien, and has found that the proposed work is in conformance with the purposes and provisions of said sections.

This authorization refers to the application to conduct regulated activities within and adjacent to the Five Mile River within the Town of Darien. The Commission has conducted its review and findings on the bases that:

- In issuing this permit, the Commission has relied on the applicants' assurances, and makes no warranties and assumes no liability as to the structural integrity of the design or any structures, nor to the engineering feasibility or efficacy of such design.
- In evaluating this application, the Environmental Protection Commission has relied on information provided by the applicants. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, after interested parties have had an opportunity to be heard at a duly noticed public hearing this permit shall be modified, suspended or revoked by the Commission.

The Environmental Protection Commission met for a general meeting for the application on May 19, 2004, and a public hearing for the application on June 17, 2004. During the EPC's meeting and hearing, the applicants' representatives presented information explaining the project and provided answers to concerns and questions raised by the Commission, Commission staff and the general public. No one from the general public participated in the public hearing, although

invited to do so by the Commission. The public hearing was closed on June 17, 2004, except to receive the July 2, 2001 letter from the Connecticut DEP Inland Water Resources Division regarding commission jurisdiction along watercourses.

Following careful review of the submitted application materials and related analysis, the Commission, all of whose members are fully familiar with the site and its surroundings, finds:

A. APPLICATION PROJECT DESCRIPTION

The application proposes the demolition of an existing single-family residence and the construction of a 5-bedroom replacement resident and extension of an existing pool patio within the within the 100' setback from Five Mile River. The project includes drainage improvements, fill and regrading within the 100' setback and the installation of a septic system within the 200' setback for subsurface disposal systems from the river. The new system would be located in the southwest portion of the property and partially located under the driveway.

A new driveway and vehicle court are proposed outside the 100' regulated area. The existing driveway would be abandoned and the area landscaped.

B. SITE DESCRIPTION

The 1.047-acre residential property is located on the western side of Five Mile River. It is located within the limits of the 100-Year Flood Zone. The residential property is developed with a residence, driveway, pool and stone terrace, walkways, and bedrock gardens. An existing stonewall border the shoreline. A large rock outcropping is located in the front yard area.

C. HEARING PRESENTATIONS AND RECORD

The hearing presentation and application record include, but is not limited to, the following (this is not meant to be an exhaustive list):

1. Proposed Plan--'Site Plan, Lee Residence, 8 North Road, Darien, Connecticut' by Stearns & Wheler, LLC, dated 6/04, last revised 6/2/2004.
2. Survey--'Topographic & Zoning Location Survey, 8 North Road, Prepared for Robert Lee & Debra Lee, Darien, Connecticut' by William W. Seymour & Associates, dated April 15, 2004, last revised May 28, 2004.
3. Engineer's Report--'Drainage Report - Lee Residence, 8 North Road, Darien, Connecticut' by Stearns & Wheler, LLC, dated April 2004, revised May 2004.
4. Architectural Drawings--'The Lee Residence, 8 North Road, Darien, CT, P&Z Submittal' by Robert A. Cardello Architects, LLC, dated May 27, 2004.

5. Health Approval–Memorandum to Nancy Sarner, Planning and Zoning, from Vince Proto, Director of Environmental Health, Health Department, dated June 8, 2004.
6. Application for Permission to Conduct a Regulated Activity within an Inland Wetland or Watercourse Area within the Town of Darien, dated 4-29-04.
7. EPC Narrative, dated 4-29-04.
8. Construction Sequence, received by the Planning & Zoning Office on June 1, 2004.
9. Letter of Authorization, to the Planning and Zoning Commission from Robert and Debra Lee, dated April 8, 2004.
10. Property Location Map–section of Tax Assessor’s Map #67.
11. Memorandum to EPC Members from Nancy Saner, Environmental/GIS Analyst, Re: EPC Jurisdiction for Five Mile River, dated 6/16/2004.
12. Letter to Steve Tessitore, Inland Water Resources Division, Connecticut DEP, from Nancy H. Sarner, Environmental/GIS Analyst, Re: Wetland Commission Jurisdiction, dated June 1, 2004.
13. Memorandum to the Town of Darien Planning and Zoning Commission and the Environmental Protection Commission from Donald Ferlow, PWS, FASLA, of Stearns & Wheler, LLC, dated June 2, 2004, with attachments.
14. List of Neighbors within 100’ of 8 North Road, dated 4-04.
15. Mailing List for 8 North Road, with map, dated 4-27-2004 (created by Darien GIS).
16. Proof of Mailing for Lee property, EPC-41-2004, received by the Planning and Zoning Office on June 7, 2004, with attachments.
17. Letter to Wilder Gleason Esq. from Nancy H. Sarner, Environmental/GIS Analyst, dated May 5, 2004.
18. Letter to Ms. Nancy Sarner, Planning & Zoning Office from Wilder G. Gleason, dated May 21, 2004.
19. Letter to Wilder Gleason Esq. from Nancy H. Sarner, Environmental/GIS Analyst, dated May 24, 2004.
20. Letter to Richard Holloway, Chairperson, Inland Wetland and Watercourse Agency, Town of Chester, from Charles Berger, Jr., Director, Inland Water Resources Division, and Charles H. Evan, Director, Office of Long Island Sound Programs, dated July 2, 2001.

D. ITEMS/ISSUES OF CONCERN TO THE COMMISSION

1. Determination of Regulatory Authority

The Commission received comments from the Connecticut DEP Inland Water Resources Division and Office of Long Island Sound Programs, and Attorney Wilder Gleason regarding the authority of the Environmental Protection Commission over the Five Mile River Road south of Tokeneke Road. The Commission feels that the question of jurisdiction has not been answered.

To err on the side of conservation, the Commission is obliged to complete its review. However, in doing so, it is not setting precedent. Regardless of the question of jurisdiction, the Commission finds that the applicant has substantially demonstrated that the project should be environmentally sound and should be able to move forward.

The Commission agrees that its jurisdiction along some of the Town's major waterways should be clarified, and shall work toward this effort.

2. Impact to the Five Mile River

The Commission reviewed plans and reports, and heard testimony from the applicants' agents. It accepts the findings of Stearns & Wheler that the proposed residential redevelopment and septic system should not have adverse environmental impact to the Five Mile River.

The Commission accepts the findings that potential impact from sedimentation and erosion has been reduced through the proposed use of appropriate controls during construction, and for the stabilization period following it, the positioning the work activity shoreward of the existing pool, and the limiting of site regrading activity.

3. Impact to Drainage

The Commission reviewed the plans and reports presented by the applicant, including the May 2004 revised drainage report by Stearns & Wheler that studied the pre- and post-development peak runoff rates for the 2, 5, 10, 25, 50 and 100-year storm frequency events. The Commission agrees that on-site stormwater retention is not necessary since the site is located in the lower third of the Five Mile River watershed. It accepts the findings of Stearns & Wheler that the proposed and existing drainage facilities would address the slight increase in runoff posed by the project, and no adverse effects to the river and adjoining properties would occur.

4. Review of Prudent and Feasible Alternatives

The Commission consider the applicants' agents' testimony regarding the lack of alternate locations for the proposed septic system, and received the May 8, 2004 approval from the Health Department. It accepts the findings that alternate locations are not available due to the extensive ledge located on the property.

E. DECISION

The Commission hereby approves the applicant's amended request, subject to the following stipulations:

1. This is a conditional approval. Each and all of the conditions herein are an integral part of the Commission's decision.
2. The Commission approves the application for the residential development and septic installation. The work activity shall be conducted in accordance with the plans, entitled 'Site Plan, Lee Residence, 8 North Road, Darien, Connecticut' by Stearns & Wheler, LLC, dated 6/04, last revised 6/2/2004, as modified by this decision.
3. The work and regulated activities are limited to that which is approved, and shall be consistent with the terms and conditions of this permit. Prior to implementation, any possible revisions to the plans must be submitted to and reviewed by the Planning and Zoning Office in accordance with Section 7.8 of the Inland Wetlands and Watercourses Regulations to determine conformance to this approval, and may require an amendment approval by the Environmental Protection Commission. Any clearing, excavation, fill, obstructions, encroachment or regulated activities not specifically identified and authorized herein shall constitute a violation of this permit and may result in its modification, suspension or revocation. Upon the initiation of the activities authorized herein, the permittee would thereby accept and agree to comply with the terms and conditions of this permits.
4. All sediment and erosion controls and construction barriers shall be installed prior to the commencement of any work activity as shown on above-referenced approved plan by Stearns & Wheler, LLC, as modified. **The plan shall be modified to include hay bales or silt sack devices around all catch basin on and adjacent to the subject property, including those across the street.** The bottom of the silt fence shall be buried a minimum of 6' into the soil and shall be backfilled with suitable material. Controls shall be installed around the temporary soil stockpiling area too be located on the existing driveway. Anti-tracking pad shall be installed at the entrance of the existing driveway. All controls must be inspected daily by the permittee or their representative. Any sagging, undermining, or damage to the silt fence or construction barrier must be repaired immediately.
5. The permittee shall notify the Environmental Protection Commission staff after the sediment and erosion controls are in place. The staff will inspect the erosion controls and protective fencing to make sure that they are sufficient and as per plan
6. Sediment and erosion controls shown on the plans shall be maintained throughout the construction process and shall only be removed when the disturbed areas have been adequately re-stabilized with suitable vegetation.
7. The permittee shall notify the Environmental Protection Commission immediately upon commencement of work and upon its completion.

8. No equipment or material, including without limitation, fill, construction materials, debris, or other items shall be deposited, placed or stored in any wetland or setback area on or off site unless specifically authorized by this permit.
9. This permit does not relieve the applicant of their responsibility to comply with all other applicable rules, regulations, and codes of other Town agencies or other regulating agencies.
10. The duration of this permit shall be five (5) years and shall expire on the date specified above. All proposed activities must be completed and all conditions of this permit must be met within one (1) year from the commencement of the proposed activity.

The motion was made by Ms. Cameron, seconded by Mr. Hutchison, and unanimously approved.

P& Z Transmittals:

1. Land Filling & Regrading Application #122, Mark & Patricia Dailey, 59 Holly Lane. Proposing to regrade rear yard and to install stone retaining wall and plantings and perform related site development activities.
2. Flood Damage Prevention Application #210, Land Filling & Regrading Application #123, Per & Jeanne Seske, 29 Outlook Drive. Proposing to install pool with patio, and regrade the rear yard and perform related site development activities.
3. Coastal Site Plan Review #113-A, Flood Damage Prevention Application #101-A, Land Filling & Regrading Application #125, Darien Park & Recreation Commission, Pear Tree Point Park Boat Launch Renovation. Proposing to renovate and reconfigure the boat launch ramp, to remove exiting floating dock and ramp and construct new floating dock and handicap accessible ramp; and lower the existing seawall and backfill and regrade the area behind the seawall; and perform related site development activities within a regulated area.

Adjournment: Having no further business to attend to, the Commission adjourned the July 7, 2004 meeting at approximately 11:00 p.m.

Respectfully submitted,

Nancy H. Sarner
Environmental/GIS Analyst