

ENVIRONMENTAL PROTECTION COMMISSION  
GENERAL MEETING & PUBLIC HEARING  
MEETING MINUTES  
JULY 21, 2004

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

Commission Staff Present: Nancy Sarner

Court Monitor: Bonnie Syat

General Meeting:

New Business:

Chairman Hillman read the following agenda item:

EPC-56-2004, Barbara Z. Geraghty, 12 Libby Lane, proposing a third-bay addition to an existing detached garage and perform related site development activities within a regulated area. The property is located on the west side of Libby Lane, approximately 360 feet north of the intersection of Libby Lane and Middlesex Road, shown on Assessor's Map #9 as Lot #54.

Mr. Hillman noted that the proposed work would be located outside the regulated areas. Ms. Sarner explained that the surveyor was not able to complete the survey in time for the meeting, but that according to the findings of Soil Scientist Otto Theall, the proposed work meets setback requirements. Mr. Hillman recommended that the filing of the updated survey be made a condition of approval.

Upon further review and discussion of the materials and plans submitted, the following motion was made: That the Commission approve with conditions Wetland Permit Application #EPC-56-2004. The application is approved with the condition that an updated survey depicting the wetland boundary as flagged by Soil Scientist Otto Theall is submitted into the application file to confirm that the construction activity is located outside the regulated 50' setback area. The motion was made by Mr. Hillman, seconded by Ms. Cameron, and unanimously approved.

Chairman Hillman read the following agenda item:

EPC-60-2004, Margaret Ann Rague, 63 Dubois Street, proposing the installation of a fence, and perform related site development activities within a regulated area. The property is located on the north side of Red Mill Lane and approximately 560 feet west of the intersection of Red Mill Lane and Old King's Highway North, shown on Assessor's Map #45 as Lot #80.

Mr. Konicki explained that the fence owned by the neighbor extends to the brook's edge, and that the application proposes installing a fence on the other side of the property. He said that the neighbor's fence was installed about two years ago. Mr. Hillman asked the other Commission members if they wanted to consider a conditional approval stipulating that the applicant work with Commission staff, the fence be painted or stained prior to installation, the fence be kept a

certain distance away from the watercourse, and a break in the fence be installed as it crosses over the stream. He noted that on the application Mr. Konicki could act on the behalf of Ms. Rague. Ms. Cameron motioned that the application be approved with the stipulations that the fence be kept 3' from the watercourse and painted or stained prior to installation, the applicant consult with Staff regarding the fence installation, and buffer plantings be installed along the watercourse. The motion was not seconded or passed.

Ms. Miller requested that a complete and detailed plan be submitted prior to an approval. Ms. Kirby said that she was curious how the maintenance of the fence paint or stain would be conducted. Mr. Konicki said that he is not sure if the fence would be painted, but then added that since it would be constructed of natural materials, he believes it would not be painted.

Mr. Hillman asked Mr. Konicki to tell Ms. Rague that, since the plan submitted is conceptual, the Commission would like to see a drawing by the fence company, including the distance from the brook. Ms. Cameron recommended that it be installed at least 3' from the stream, and that a 3' planting buffer be created.

Mr. Hutchison recommended that the fence be painted or stained prior to installation. Ms. Cameron reported that the property is extremely wet, and asked how close the fence would be to the watercourse. Ms. Miller noted that the distance from the brook had not been specified in the application. Ms. Cameron said that the neighbor's fence extends to the brook's edge, asked if Ms. Rague is proposing the same thing, and expressed concern about obstructing or channelizing flow. She asked what would happen to the water flow. She noted that there is a footbridge.

Mr. Konicki stated that the purpose of the fence is privacy, and that Ms. Rague had at least one estimate from a fence company. Mr. Hillman recommended that the fence company draw a more detailed plan. Ms. Cameron explained that the Commission does not want the fence to fall down and obstruct the waterway.

Mr. Hillman asked Mr. Konicki to arrange with Staff the submission of the materials for the August 4, 2004 meeting. Mr. Konicki said that in specifying how the posts would be anchored, the cement footing is only necessary in the very wet areas. Ms. Cameron noted that a soils report had not been provided, and said that since the soils appeared wet right up to the house, she would speculate that, even if cement were used for the footings, the posts would still rot. Mr. Hutchison said that the cedar should hold up pretty well to moisture, but would eventually be impacted by the moisture. He said he was not sure if the fence on the neighbor's property at 59 Dubois Street was authorized to go to the stream bank.

It was the consensus of the Commission that the application discussion be continued to the August 4, 2004 meeting.

Chairman Hillman read the following agenda item:

EPC-61-2004, Barry & Casaundra McMaster, 2 Brown Street, proposing the installation of a fence, and perform related site development activities within a regulated area. The property is located on the northeast corner formed by the intersection of West Avenue and Brown Street, shown on Assessor's Map #23 as Lot #6.

Since no one was present on behalf of the application, the Commission tabled the application, #EPC-61-2004.

Chairman Hillman read the following agenda item:

EPC-62-2004, Kevin & Danielle Granath, 5 Old Parish Road, proposing the construction of a three car garage, driveway extension, and perform related site development activities within a regulated area. The property is located on the east side of Old Parish Road, approximately 303 feet south of the intersection of Middlesex Road and Old Parish Road, shown on Assessor's Map #19 as Lot #37.

Kevin and Danielle Granath were present to discuss their application and address questions from the Commission. Mr. Granath informed the Commission that Connecticut Light and Power removed a tree from near the brook.

Mr. Hillman asked Ms. Sarner if she had information regarding the roadway culvert. Ms. Sarner replied that she was not familiar with the stormwater system for Old Parish Road.

Ms. Cameron asked why two soils report had been submitted. Mrs. Granath explained that the first report relied on a survey that had the wrong north arrow, which had been corrected with a revised plan by the surveyor and the second report by the soil scientist.

Mr. Lewis asked if the culvert is maintained by the Town. Mr. and Mrs. Granath replied that it is not. Mr. Hillman asked if they had a water problem on the site. Mr. Granath replied that the water did backup onto his property in the worst rain event that occurred approximately three year ago. He explained that he and his neighbor keep the culvert area clean because it becomes clogged periodically. Mrs. Granath reported that they did not have flooding during the storm event on Labor Day that flooded Noroton Heights.

Mr. Hillman noted that there was not much slope where the garage is proposed. Ms. Cameron asked if any impervious surface area would be removed. Mr. Granath replied that they would remove the existing driveway located on the other side of the property. Ms. Cameron said that she liked the alternative that placed the disturbance 25' from the wetlands. Mr. Granath explained that the drawback to that plan is that a 30" Japanese Maples would be removed. He said that they had already lost one Japanese Maple from water damage.

Mr. Hutchison noted that he saw development on the other side of the road. Mrs. Granath said that the work would be finished in the spring. Mr. Granath said that their driveway is raised a few inches above the roadway and that since the road drains to both sides of the road, they have not seen any increase in water from the nearby development.

Mr. Hillman commented that the Granaths have a beautiful backyard with boulders and plantings.

Mr. Miller asked how close the work is proposed from the wetlands. Mr. Granath replied that he knows the proposed work would be close to the wetlands, but feels that the soil scientist's report addresses this concern since it states that any increase in runoff would be insignificant.

Mrs. Granath said that the soils report states that runoff from either a paved or a gravel driveway could be handled by the wetlands as part of its natural function. Ms. Miller noted that the area along the wetlands boundary is heavily vegetated. Ms. Cameron said the area could be improved with some plantings to replace lawn.

Mr. Hutchison said that currently, the garage and driveway are on the right side of the residence.

Mr. Granath stated that this is correct. He said that the residence is an older house built in the 50's with limited storage and space in the garage. He said they hoped to convert the garage into living area. He explained that the proximity of the side-yard zoning setback prohibits an expansion on the right side of the house, that a rear addition would impact the living area, and that there is no room in the front for expansion. Mrs. Granath said that a northern addition would block natural light from the residence. She said that they are receptive to recommendations from the EPC regarding mitigation. Mr. Kenyon stated that seeking a variance for an addition on the right side of the residence would be difficult. Mr. Hutchison added that this option would not work with the interior flow of the house. Mr. Granath said an addition similar to the size proposed by the application on the right side of the residence would extend to the property line. Mr. Hillman said he was not sure that it would be a prudent or feasible alternative.

Ms. Cameron noted that there is an alternative to bring the driveway on the left side straight into the garage, and remain 25' from the wetlands. Mr. Hutchison said that aesthetically, he could see why the Granaths did not propose this design, but suggested that they could install attractive garage doors. Ms. Cameron said that they might save the Japanese Maple by curving the driveway. Ms. Miller agreed that Alternative #1 could be modified to preserve the maple.

Ms. Sarner explained that if revised plans are received by July 30, 2004, the continuation of the application could be scheduled for the August 4, 2004 meeting.

Mr. Hillman requested that the wetlands in the rear yard be cleaned up, and stated that he believes the Granaths are approaching the EPC in good faith.

It was the meeting consensus that the application be continued to the August 4, 2004 meeting.

Chairman Hillman read the following agenda item:

EPC-59-2004, Edward & Lisa McCarthy, 11 Red Mill Lane, proposing a residential addition, stone retaining walls, swimming pool and terrace, fill and regrading activity, plantings, and perform related site development activities within a regulated area. The property is located on the north side of Red Mill Lane and approximately 560 feet west of the intersection of Red Mill Lane and Old King's Highway North, shown on Assessor's Map #39 as Lot #84.

Holt McChord, P.E., presented the application and was joined by environmental consultant, Gil Wheelless of Environmental Design Associates.

Mr. Hillman asked the other Commission members if they felt the application was complete. The members stated that it was. Mr. Hillman asked the other Commission members if the application should be scheduled for a Public Hearing. Ms. Miller said that she felt it should be. Mr. Hillman agreed, and commented that it is an unusual piece of property.

Ms. Cameron stated that a prior application discussed the placement of plantings within the detention basin, but that she did not see the plantings during her site visit, although the approved basin accessway had been installed.

Ms. Cameron recommended that Japanese Knotweed be removed if plantings are installed near them.

Mr. Wheelless reviewed the wetland lines. He said that if the proposed pool were pulled back, it would encroach upon the existing pine stand. Ms. Cameron stated that if the pool were smaller, it could be moved back, which would reduce the amount of fill required. Mr. Hillman said that there is some flexibility in review. Ms. Cameron said that the resource is an intermittent watercourse. Mr. Hillman noted that fencing is needed for safety. Ms. Cameron said she felt that the wall would be too big for the area and she would like to see a plan proposing less fill.

Ms. Kirby asked if the applicant would move the entire wall. Mr. Wheelless replied that it would be moved back to join the existing wall. He said the area would be filled and regraded, and the new wall would have a stone veneer, and that the wall would be 4' in height and then bump up another 4' as get closer to the house. He reported that Mr. McChord is making sure that the detention basin's stormwater storage capacity would still be available after the work is conducted, and explained that the basin had been over designed. He said that they would avoid tree roots and that a grass area with plantings would be located between the proposed pool and existing basin.

The Commission discussed dates for the Public Hearing, and it was decided that the hearing be held on September 8, 2004, which would be the rescheduled meeting from September 1, 2004.

Public Hearing:

Chairman Hillman read the following agenda item:

Continuation of EPC-37-2004, Country Club of Darien, 300 Mansfield Avenue, proposing demolition of two maintenance sheds and garage (sand shed), paving for parking area to be equipped with a filtered drainage system, placement of a dumpster on a new concrete pad, installation of a water line and underground utilities, widening of the main entry road, installation of fencing and stonewall, drainage improvements, headwall, relocation of tee areas, realign cart path, install new cart path, and plantings, and perform related site development activities within a regulated area. The property is located on the east side of Mansfield Avenue approximately 1,800 feet north of the intersection of Mansfield Avenue and Buttonwood Lane, shown on Assessor's Map #5 as Lot #40.

Attorney Stephen Pierson, along with Attorney William Hennessey, presented the application to the Commission. Atty. Pierson confirmed that the drainage report by Edward J. Frattaroli, Inc. had been submitted. He reported that in response to Mr. Douglas' letter, the club hired an engineer to conduct an environmental study. He said the report has been completed and would be discussed by Atty. Hennessey. Mr. Hillman said that the Commission could discuss the new report, but advised that the hearing may need to be continued.

Attorney Hennessey said that the Phase I Environmental report had been recently emailed to him and that he just completed his review. He explained that it was received on short notice because the consultant thought he had more time to write it. He said he does not have the attached schedules, which include Mr. Douglas' letter. He explained that the Phase I study was conducted by AMC Technology, who found that most of the maintenance area is okay. He said that the oil drippings in the parking area and petroleum products had been cleaned up, after which the area was retested and found to be clean. He reported that in 1992, a former tank was replaced with a new one, and the soil levels in that area showed benzene, which needs to be corrected. He apologized for not submitting the Phase I report to the Commission sooner. Ms. Cameron asked if the contaminated soil had been found within regulated areas. Atty. Hennessey replied that the area is far outside the wetland setbacks. Mr. Hillman asked about the chemical found. Atty. Hennessey replied by reading from the report. Mr. Hillman noted that the State's standard for benzene concentration is 500 mg, but that 1200 mg had been found. Atty. Hennessey agreed, and explained that it had been cleaned pursuant to State regulations. He reported that by the time they received the report, the known problems had been corrected.

Atty. Hennessey informed the Commission that John McClutchy of the Country Club of Darien was present to address questions from the Commission.

Atty. Hennessey informed the Commission that Mr. Douglas has purchased the southern residential lot and open space area created by a subdivision approval off of Brookside Road, and that there had been tension regarding the common driveway shared by the Mr. Douglas and the Country Club of Darien. Atty. Hennessey said that Mr. Douglas has since sold the residential lot but still owns the open space parcel.

Mr. McClutchy said that the debris and garbage were probably in the area since the 20's or 30's, and that since the Club has been in existence for approximately 23 years, it predates the wetland regulations. He said that the drums shown in Mr. Douglas' photographs were filled with concrete and are not part of the Club's operation. He added that the drums had been there before the trees grew up around them.

Mr. Hutchison asked about the origin of the benzene contamination. Atty. Pierson replied that it was most likely from the leaking underground storage tank containing gasoline. He said that the tank had been abandoned per the Fire Marshal's Office, and noted that today's standards are tougher. He said that when AMC Technology began its study, he had given them a copy of Mr. Douglas' letter, and asked them to investigate the allegations made within the letter. Mr. Hutchison clarified that the benzene was a by-product of the gasoline stored on the site. Ms. Cameron inquired to which Town authority had reviewed the tank removal. Ms. Sarner replied that the Fire Marshal's office reviews the removal of underground storage tanks.

Atty. Hennessey added that the Club worked with the environmental professionals to look at the soils. John Pugliesi, P.E., of Edward J. Frattaroli, Inc., reported that the contamination was found approximately 100' from the regulated area. Atty. Hennessey submitted the Phase I Environmental Study into the record.

Atty. Pierson said that he would like to review the removal/relocation of the maintenance shed and installation of the underground utility lines. He said that the existing maintenance shed is located within the regulated setback area. Mr. Hillman asked if the Planning and Zoning Commission requires a permit review. Atty. Pierson replied that a Special Permit review is required.

Mr. Hillman said that he would like to pass the Phase I reports around, and Atty. Hennessey submitted more copies to the Commission members. Mr. McClutchy said that no asbestos had been found. Atty. Hennessey referred to page 11 of the report regarding the soil and groundwater investigation. The Commission took some time to review the report.

Tim O'Neill of the Country Club of Darien addressed the Commission. Mr. O'Neill said that the structures to be removed were two metal-framed buildings. He said that one was heated and the other was not, and both are constructed of beams and corrugated metal. He said that they planned on connecting to the sanitary sewer at the clubhouse. Mr. Hillman asked if the existing septic system would be abandoned if they did connect to the sewer.

Mr. Hillman read page 11 of the report, and said that it is consistent with Mr. Hennessey's summary. Ms. Miller asked if pictures of the project area had been provided. Ms. Cameron inquired to stormwater drainage. Atty. Hennessey replied that he would ask Mr. Pugliesi to address the stormwater drainage, and that Tim O'Neill would be able to discuss the Club's operation. Atty. Pierson explained that the application proposes the removal of the maintenance structure from within regulated areas. He noted that the sand shed had been labeled "garage" on the plan, and that it would be removed from the setback area. He said that the other sheds are outside the regulated area. Mr. Lewis inquired about the existing concrete pad. Mr. Pierson replied that the pad was from a fountain, and clarified that the shed is set on the ground. He said that the shed could be removed in one day, and that the fountain is not a significant size.

Mr. Hillman said that he thought they could move onto other items proposed under the application. Atty. Pierson said that the property between the shed and the property lines has been used for employee parking, deliveries and dumpster location, and is not paved. He said that in the past years, it has fallen into disrepair. He explained that if approved, the Club would construct a stone boulder wall approximately 25' from the wetlands and install wetland remediation plantings. He noted that the area is now grass, and said it probably has not been natural for approximately 50 years, including the time the property was a farm. He said that the wall would physically separate the work area from the wetlands, and that it would still be used for deliveries but not employee parking. Atty. Pierson said that, per the application, they propose adding macadam to accommodate the truck traffic, and reported that they would install an oil-grit separator as part of the stormwater system to remove pollutants that could impact the groundwater. He said that the stormwater system would be comprised of a series of systems to be located outside the regulated area. Atty. Pierson said that as part of the project, some cart

paths would be removed and be relocated further from wetlands and setback area, and therefore would be placed on part of the golf course.

Atty. Pierson discussed alternatives. He said that the purpose of the proposal was to relocate the maintenance facility further away from the wetlands, yet remain in workable distance from Brookside Road. He said that the Brookside Road entrance is used for deliveries and heavy work, and has existed even when the property was a farm. He said that if the maintenance area was in a different location, they would need to install a connecting roadway. He said that the project would also improve the physical appearance of the maintenance area. He explained that they would keep the dumpster in the setback area, but it would be relocated and placed on a concrete slab in a location that would be accessible to trucks. He said that the dumpster would not be used for recycled paper or garbage, but is needed as part of the golf course operations. He said that size of the trucks and dumpster make it impossible for it to be placed between the new maintenance structures. He said that they do not have many choices because changes to the plan could interfere with the running of the golf course.

Mr. Hillman said that one of last week's newspapers contained an article regarding the Planning and Zoning hearing for the project, and asked if any EPC concerns had been brought up by the paper or neighbors. Atty. Pierson said that the concern expressed within the article pertained to the issue of the kitchen, pool, staff housing and halfway house, and were not related wetland issues. He added that they would meet again with the Planning and Zoning Commission in September. Ms. Cameron asked if those issues could impact the main driveway. Atty. Pierson replied that they would not, and that it would be explained later in the presentation.

Ms. Cameron said that she did not attend to jump ahead, but thought to ask since Atty. Pierson mentioned the proposed activity associated with the pool and kitchen areas, and wanted to know how that work impacted the driveway design. Atty. Pierson said the pool and kitchen work would not impact the main driveway because both involved interior work.

Mr. Pugliesi reviewed the existing site conditions plan. He summarized that the maintenance area is located off Brookside Road, the water fountain is located near the cart path, the proposed plan shows the flagged wetlands and 50' setback areas, the buffer area is mostly grassed or paved, and the existing dumpster is located parallel to the shed. Ms. Kirby inquired about cars. Mr. Pugliesi said the area gets approximately 15 to 20 cars a day. Ms. Miller asked if all the employees parked in the area. Mr. Pugliesi replied that only the maintenance staff used the parking area near the maintenance sheds. Mr. O'Neill added that the other club employees use the Mansfield Avenue entrance and park near the tennis courts.

Mr. Pugliesi reviewed the proposed plan. He said that the paved driveway and new stonewall would be a minimum of 25' from the wetlands. He said that the area would be graded so not to slope toward the wetlands, and that the employee parking would be in the southern section of the area and the dumpster would be in the eastern portion. He stated that the buffer area would be increased and revegetated, and that a planting plan by Wesley Stout Associates had been provided. Mr. Pugliesi stated that there would be an increase in impervious area from the additional pavement and larger buildings, and that water from the roof and parking area would go into the stormwater drainage system, which would meter out the flow through a series of pipes. He explained that there would be no encroachment into wetland soils, that the cart path would be connected to the driveway, and that the oil and grit separator would treat runoff.

Ms. Cameron asked how they would pick up stormwater flow. Mr. Pugliesi replied that the area would be graded toward the catch basins, and then directed to the oil-grit separator.

Mr. Hillman asked how much of the work is proposed within regulated areas. Mr. Pugliesi explained that the application could be broken down into three projects that would encroach upon the regulated areas. He summarized that the three sub-projects are the installation of underground utilities, which would require crossing two sections of regulated area, the driveway widening and drainage improvements, and the regrading and repaving of the clubhouse parking area, which would not increase the impervious area for that portion of the property.

Mr. Hillman noted for the record that the applicant had submitted an extensive drainage report, which the Commission read and is familiar with. He asked if the Commission members had any questions regarding the report. Ms. Cameron said that she would like to focus on the main driveway. Mr. Hillman agreed, and stated that he felt that the work proposed for the maintenance area would be acceptable.

Atty. Pierson said that the EPC had received a letter from a neighbor, Mr. Lincoln, which expressed concern regarding drainage from the Club property. Mr. Pugliesi clarified that when he studied the property, and by dividing it into its sub-watersheds, he found there was a decrease in water flow from the western Keewaydin subdivision, which should have helped any flooding conditions. He speculated that a condition on Mr. Lincoln's property might be blocking the flow of water.

Atty. Pierson asked if the Commission had questions regarding the underground utilities. Mr. Hillman replied that he and the other members did not have questions related to that issue and had read the materials provided.

Atty. Pierson turned the presentation to the discussion of the proposed widening of the main entrance driveway located off Mansfield Avenue. He explained that the use of the club has changed over time, and that it now offers tennis courts and the pool facility in addition to the golf course. He said that there are more members with small children because the membership age is decreasing, and SUV traffic has increased. He explained that parents drop children off as close to the pool area as possible, requiring the parents to make a u-turn, which is potentially hazardous because the drive is only 16' wide. He said that the drop-off area, which is near the watercourse, poses a traffic hazard as a car could drive off the side. He said that the purpose of this part of the application is therefore safety. He explained that the drive has a fairly abrupt turn, and it is difficult for cars to pass one another. He said there is a farmer's drainage ditch on the southern side of the roadway.

Atty. Pierson said that the application proposed straightening the road to reduce the bend, so that there is one way into the pool area, and add some parking. He said that the work would require crossing the wetlands. He reviewed that the existing drive crosses the drainage ditch, which has intermittent flow. He said that their review of alternatives this part of the proposal was done in context of the safety concern. He said that under each alternate design considered, a ditch crossing would be required. He said that they reviewed five different alternatives that have to do with at what point the driveway would cross the wetlands and drainage ditch near holes #2 and #10. He said that they looked into making the fairway narrower but it would raise safety issues

during golf play. He said that the golf course must have a safe design, so they could not propose anything that would be deliberately unsafe. He noted that part of the application is to push part of the play area away from the driveway to direct play away from the buffer area.

Ms. Cameron asked if there were wetland soils associated with the drainage ditch. Atty. Pierson replied that there were, but no matter what they did, they must cross the wetlands and watercourse. He explained that the existing disturbance within regulated area is a use as of right, under the State regulations. He said that the alternatives had been submitted. He reviewed the fifth alternative, which looked at the option of placing the driveway around the building, which would cross the lawn and require a sharp turn at a ninety degree angle at a narrow point of the drive and would therefore be hazardous.

Ms. Cameron inquired whether the purpose of the driveway alteration was to have a drop-off area for kids involved in the camp program, which is held from Memorial Day to Labor Day. Atty. Pierson replied that the turnaround is located within the area of the most pedestrian use. Ms. Cameron said that the drop-off activity is limited to a short time in mornings and afternoons for approximately 8 weeks of the year. Mr. McClutchy explained that the main club traffic is from Mansfield Avenue, and that cars turn left to park in the area behind the club. Ms. Cameron asked if the proposed parking area would be smaller. Mr. McClutchy replied that it would be reduced. Ms. Cameron explained that since the Club proposed installing and removing macadam within regulated areas, there should be a greater purpose or use than just a drop-off area for kids. Mr. Wesley Stout, Landscape Architect, explained that they would save trees along the driveway, and plan to relocate the cedar and arborvitae. He said, under the proposed plan, they want to preserve the trees on the golf course side of the driveway. Ms. Cameron asked about the trees between building and driveway. Mr. Stout replied that Oaks and Cedar trees would be removed. Ms. Cameron asked the applicant to explain why there is no alternate plan proposing less impact. Mr. Stout reviewed Alternatives A through D, which include the scenario of maintaining the existing driveway and installing a by-pass road. He said that the existing driveway is as narrow as 16' therefore trucks and cars compete for space, and is near the tee off area. He said that the different uses vie with one another. He said that the by-pass road scenario posed similar impact to the proposed plan, but would not address the turnaround problem. He explained that club members using the pool facilities must walk further to get from parking lot to the pool, because parking lot fills early.

Mr. Hutchison summarized that there is no direct driveway from the parking area to the pool facility, the sight lines are poor, and there are few sidewalks. Ms. Cameron explained that is why she likes the drive to come around the building, which would have better sight lines. Mr. McClutchy said the option posed the hazards to pedestrians of being hit with golf balls. Mr. Stout noted that this alternative does not pose fewer disturbances to the regulated area.

Mr. Stout reviewed Alternative B, which has a different alignment including a looped driveway and additional parking. He said this alternative as not chosen because is posed greater disturbance to wetlands in other areas, and would impact the 10<sup>th</sup> hole. He reported that they looked at restructuring the golf course with a golf course architect.

Mr. Stout reviewed Alternative C, which is a more aggressive version of proposed plan, but that they chose to cut back. He explained that the design included a drop-off loop, continuous curb,

and parking, but posed more impact to the golf course. He described it as a model of where they were with the current proposal, which had been trimmed back.

Mr. Stout reviewed Alternative D, which looked at going around the back of the building, but had found that everything else suffers. Ms. Cameron said she believes Mr. Stout had misunderstood her concerns regarding the driving purpose of the proposal as creating a drop-off for kids and maintaining the driveway. Mr. McClutchy explained that they need to work around the tee off area and cart paths near the connection of 9<sup>th</sup> and 10<sup>th</sup> holes, which is a high traffic area. Ms. Cameron commented that the application does not include much information about the different uses of the area. Mr. Hillman clarified that the applicant might be underselling the need of the project by saying it is only for a drop-off area, but that the main driveway is a real year-round entrance/egress. He said that the driving purpose for the application is a much more intensive use, but that the purpose has been presented as the creation of a drop-off area but it is actually more than that. Mr. McClutchy said that the sharp turn does not slow people down and their interest is to make the area safer. He said that there were accidents, including one involving an employee on a bike approximately three years ago. Mr. McClutchy explained that carts cross the drive, but the biggest issue is the sharp turn, and that they respect the wetlands but believe there is a way to improve the turn.

Ms. Cameron asked about proposed remediation. Ms. Cameron and Mr. Hillman noted that there would be a loss of wetlands and tree removal. Mr. Stout replied that they would keep disturbances to a minimum, including the wall construction, but said that there is no mitigation planting plan proposed. Mr. Hillman said that mitigation should be addressed, and asked if plantings are proposed. Mr. Stout replied that plantings are proposed between the road and parking area. He added that the proposed wall would limit fill and disturbance, and new trees and shrubs would be placed near the pool house. Ms. Cameron asked if plantings would be added along the wall. Mr. Stout replied that the golf architect advised that the wall would be okay because it would not interrupt play, but shrubs in the area would create a penalty from their perspective, which would change play. He said that, at the maintenance area, they could extend the wetlands and buffer enhancement plantings, but that in the clubhouse area, there are a lot of vying uses.

Mr. Kenyon asked which plan is proposed for the roadway. Mr. Stout replied that they have proposed a trimmed back version of Alternative C.

Mr. Hillman asked if anyone from the public wished to speak. Having no response, he then asked if the other Commission members have further questions.

Mr. Kenyon asked about the difference between the proposed plan and Alternative C. Mr. Stout replied that the proposed plan has a reduced parking area and is a smaller version of Alternative C.

Mr. Hillman said that he was impressed with the consideration of alternatives. He said that the application attempts to address a problem the Club has had over the years, and that ecologically, the nature of the wetlands would be enhanced by the entire, overall plan, which he feels is a benefit.

Ms. Cameron noted that the Club received a diversion permit from State DEP. Atty. Pierson said the Club now has an existing, temporary permit. He said that they filed an application for permission to increase use. He clarified that the Club does not have a final diversion permit but a preliminary one. Ms. Cameron said she thought it was reported that they have a permit, but that they actually do not. Mr. McClutchy said that the Club has a consent order.

Mr. Hillman asked Mr. McClutchy to summarize the driveway widening. Mr. McClutchy said they that they consider safety to be the main issue. He said that the deliveries and car traffic cannot pass each other, and added people are not always aware. Mr. Hillman noted that the driveway is a year-round use. Mr. McClutchy agreed that there is a year-round use, and reported that the dining room usage is up, there is more golf play, activities and groups every day, and the Club has over 500 members. Mr. Hillman opinioned that it is a good application that addresses many concerns.

It was the meeting consensus that the public hearing for Application #EPC-37-2004 be closed.

The General Meeting was resumed at the close of the public hearing.

Discussion and Possible Decision for 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 Assessor's Map #57 as Lot #43

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

EFFECTIVE DATE: JULY 21, 2004  
EXPIRATION DATE: JULY 21, 2009

Application Number:	EPC-50-2004
Applicant's Name and Address:	Janice Mahaney 33 Plymouth Road Darien, CT 06820
Property Address of Proposed Activity:	26 Shipway Road Darien, CT 06820
Name and Address of Applicant's Representative:	Joseph J. Rucci, Jr., Esq. Rucci, Burnham, Carta & Edelberg, LLP P.O. Box 1107

30 Old Kings Highway South  
Darien, CT 06820

Proposed Activity: Proposing the construction of a single-family residence, installation of a driveway, and perform related site development activities within a regulated area

Shown on Assessor's Map #57 as Lot #43.

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 inland wetlands 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 June 2, 2004, and a public hearing for the application on July 7, 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 and Commission staff. No one from the general public participated in the public hearing, although invited to do so by the Commission.

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:

1. APPLICATION PROJECT DESCRIPTION

The application proposes the construction of a single-family residence, three-car garage, and modified driveway. The house would be located approximately over the location of a former residence with the three-car garage to be located over an existing paved area. The driveway shall be maintained and repositioned near its terminus to serve the new residence. The driveway connection to 30 Shipway Road would be removed and the area would be landscaped. The original septic system shall be abandoned and the new residence would be connected to town sanitary sewer using a pumped sewage disposal system with a force main connection.

2. SITE DESCRIPTION

The 2.11-acre residential property is located on the shoreline of Darien Harbor, a.k.a. Darien River and Goodwives River. The lot was previously developed with a single-family residence. Associated paved driveway and landscaping remain. Inland wetlands are located on the northern and eastern portion of the property, as well as wetlands on the adjoining property at 30 Shipway Road adjacent to the western and southwestern property lines. Tidal wetlands are located within the southern portion of the property.

3. 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 – “Zoning Location Survey Prepared for D. Bradford Mahaney & Janice Mahaney, 26 Shipway Road, Darien, Connecticut” by William W. Seymour & Associates, P.C., dated May 10, 2004, revised 5-11-04.
2. Architecturals – “Mahaney Residence, Darien, CT,” Sheets SP-1, and A-1~A.6, by Neil Hauck Architects, dated 3/25/04, last revised 5/10/04.
3. Plan – “Coastal Resources - Environmental/Wetland Evaluation, Coastal Area Management Site Plan, Mahaney Property – Darien, Connecticut,” Sheet 2, by Stearns & Wheler, LLC, dated 5/10/2004, last revised 5 July 2004.
4. Plan – “Coastal Site Plan - Environmental/Wetland Evaluation, Coastal Area Management Site Plan, Mahaney Property – Darien, Connecticut,” Sheet 3, by Stearns & Wheler, LLC, dated 5/10/2004, last revised 5 July 2004.
5. Plan – “Coastal Site Plan - Environmental/Wetland Evaluation, Coastal Area Management Site Plan, Mahaney Property – Darien, Connecticut,” Sheet 3A, by Stearns & Wheler, LLC, dated 5/10/2004, last revised 5 July 2004.

6. Plan – “Erosion Control Plan - Environmental/Wetland Evaluation, Coastal Area Management Site Plan, Mahaney Property – Darien, Connecticut,” Sheet 4, by Stearns & Wheler, LLC, dated 5/10/2004, last revised 5 July 2004.
7. Plan – “Erosion Control - Environmental/Wetland Evaluation, Coastal Area Management Site Plan, Mahaney Property – Darien, Connecticut,” Sheet 4, by Stearns & Wheler, LLC, dated 5/10/2004.
8. Site Location Map – Photocopy of Tax Map #57, highlighting the subject property, Lot #43.
9. Report – “Coastal Area Management and Environmental Analysis, Single-Family Residence, shipway Road, Darien, Connecticut” by Stearns & Wheler, LLC, dated May 2004.
10. Letter of Authorization regarding the law firm of Rucci, Burnham, Carta & Edelberg, LLP, signed by Janice A. Mahaney, dated May 7, 2004.
11. Application for Permission to Conduct a Regulated Activity within an Inland Wetland or Watercourse Area within the Town of Darien, signed by Joseph J. Rucci, Jr., Esq. on behalf of Janice Mahaney, dated May 12, 2004.
12. Narratives for EPC Application, Janice A. Mahaney, 26 Shipway Road, Darien, Connecticut.
13. Mailing List for 26 Shipway Road, Neighbors within 100 feet of Project Area, with map, dated 5/28/2004.
14. List of Owners of Properties within 100 feet, Application of Rucci, Burnham, Carta & Edelberg, LLP, for Janice Mahaney, 26 Shipway Road, Darien, Connecticut, dated May 12, 2004.
15. Proof of Certified Mailings of Notices to Neighbors of Public Hearing, Received by the Planning and Zoning Office on June 30, 2004.
16. Letter to the Planning and Zoning Commission, RE: Application of Janice A. Mahaney, 26 Shipway Road, signed by neighbors, received during the 6-2-2004 meeting.
17. Letter to the Planning and Zoning Commission, RE: Application of Janice A. Mahaney, 26 Shipway Road, signed by neighbors, received during the 7-7-2004 public hearing.
18. Photocopy of a Section of the “Zoning Location Survey Prepared for Michael R. Stone, Darien, Connecticut” by Ryan and Faulds, LLC, dated September 26, 1997, last revised February 27, 2002 received and approved under the amendment of Wetland Permit #EPC-36-2000 for 30 Shipway Road.

#### 4. ITEMS/ISSUES OF CONCERN TO THE COMMISSION

##### 1. Impact to Inland Wetlands

The Commission reviewed the proposed plan and report by Stearns & Wheler, LLC and heard testimony from Donald Ferlow, Landscape Architect and Wetland Scientists, of Stearns & Wheler.

The Commission recognizes that the work activity within the regulated area could cause erosion and/or sedimentation, and has reviewed the applicant's proposed steps to prevent significant impact to the resources. The applicant has proposed the use of sediment and erosion controls down slope of disturbed areas to protect the resources and an anti-tracking pad at the construction entrance. The Commission concluded that a row of hay bales should be installed along the north and south sides of the driveway to better protect the adjacent pond and wetlands.

The Commission finds that, with the augmented sediment and erosion control plan, the application should not pose a significant impact to the inland wetlands and pond. In addition, that the Commission finds that it imperative that all measures be taken to ensure that during construction sediment and erosion controls are in place and maintained in proper condition, and that additional controls beyond those discussed within this resolution may be determined to be required in the field.

##### 2. Impact to Drainage

The Commission reviewed the plans and reports presented by the applicant. The proposed stormwater runoff pattern and volumes of runoff should be similar to those associated with the former residence and development on the site. The Commission accepts the findings of Stearns & Wheler that the application proposal should not pose an adversely impact the drainage, quality of stormwater runoff, and the inland wetlands.

##### 3. Unauthorized Existing Site Conditions

Under a past permit review for the property, filed by a previous property owner, the Commission had approved a similar residential development proposal, the driveway was to remain gravel. The former owner of 30 Shipway Road, Mr. Stone, subsequently purchased 26 Shipway Road and demolished the structures. At some point, the driveway was paved and extended to turn onto 30 Shipway Road.

The Commission discussed the existing violation, and agreed that maintaining the pavement would pose less impact to the adjacent wetlands than removing the impervious surface and replacing it with a gravel driveway.

##### 4. Review of Feasible and Prudent Alternatives

The Commission accepts the findings of Stearns & Wheler that the proposed regulated activity does not pose a significant impact to the wetlands since the work has been

maintained to a previously disturbed area, located upland of adjacent natural resources, and proposes mitigation through the use of sediment and erosion controls throughout the construction process. Therefore, a finding of a feasible and prudent alternative is not required pursuant to Section 10.3 of the Town's Inland Wetlands and Watercourses Regulations.

## 5. 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 as shown on the plan entitled "Zoning Location Survey Prepared for D. Bradford Mahaney & Janice Mahaney, 26 Shipway Road, Darien, Connecticut" by William W. Seymour & Associates, P.C., dated May 10, 2004, revised 5-11-04.
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. The sediment and erosion control plan entitled "Erosion Control Plan Environmental /Wetland Evaluation, Coastal Area Management Site Plan, Mahaney Property – Darien, Connecticut," Sheet 4, by Stearns & Wheler, LLC, dated 5/10/2004, last revised 5 July 2004, shall be modified to include rows of staked hay bales on the north and south sides of the driveway to protect the adjacent wetlands and pond and additional silt fencing around the two stockpiling areas.
5. All sediment and erosion controls and construction barriers shall be installed prior to the commencement of any work activity. The bottom of the silt fence shall be buried a minimum of 6" into the soil and shall be backfilled with suitable material. Silt fencing or hay bales shall be installed around the two temporary soil stockpiling areas located to the south and north of the proposed residence, upland of the silt fencing. The anti-tracking pad shall be installed at the entrance as shown on the Erosion Control Plan. All controls must be inspected daily by the permittee or their representative. Any sagging, undermining, or

damage to the silt fence or construction barrier or compaction and silting of the anti-tracking pad must be repaired immediately.

6. 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
7. 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.
8. The permittee shall notify the Environmental Protection Commission immediately upon commencement of work and upon its completion.
9. 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.
10. 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.
11. 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 Mr. Hillman, seconded by Mr. Hutchison, and unanimously approved.

Discussion and Deliberation of EPC-37-2004, Country Club of Darien, 300 Mansfield Avenue:

The Commission discussed the drafting of a resolution for Application #EPC-37-2004. The possible decision was scheduled for the August 4, 2004 meeting.

Hope Pond:

Chairman Hillman informed the other Commission members that an appeal had been received for the Hope Pond dredging approval, #EPC-53-2004.

Cherry Lawn Park:

Chairman Hillman confirmed that a letter from Sylvia Scudder, RTM Member, regarding the EPC's decision for the Casey Field expansion had been received, and a brief reply would be sent.

P& Z Transmittals:

Mr. Hutchison and Mr. Lewis formed a subcommittee to review the transmittal request from the Planning and Zoning Commission for the proposed boat ramp at Pear Tree Point Beach.

Approval of Minutes:

The Commission unanimously approved the meeting minutes for May 5, 2004 and May 19, 2004, with corrections.

Adjournment: Having no further business to attend to, the Commission adjourned the July 21, 2004 meeting at approximately 11:30 p.m.

Respectfully submitted,

Nancy H. Sarner  
Environmental/GIS Analyst