

ENVIRONMENTAL PROTECTION COMMISSION
GENERAL MEETING & PUBLIC HEARING
MEETING MINUTES
AUGUST 4, 2004

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

Commission Staff Present: Nancy Sarner

Court Monitor: Bonnie Syat

General Meeting:

Old Business:

Applications EPC-42-2004, Lisa Michels, 34 Lake Drive, and EPC-60-2004, Margaret Ann Rague, 63 Dubois Street were postponed until the August 11, 2004 meeting.

Chairman Hillman read the following agenda item:

Continuation of 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.

Ms. Kirby announced that she knows Mrs. McMaster, since their children are in the same nursery school, and stated that she felt she could sit impartially for the discussion of the application.

Mr. Hillman reviewed that the application proposed the installation of a fence that would be a 6' high white cedar fence, and the repair an existing fence. Mrs. McMaster said that the fence would be approximately 10' from the watercourse located on the neighboring property, and would be a continuation of the existing 6' fence. She explained that the existing fence would be maintained and repaired, not replaced, because the new zoning regulations stipulate that only 4' fences are allowed within front yard setbacks. The subject parcel is a corner lot, and therefore has two front yard setbacks.

Ms. Miller recommended that the existing log pile be removed, and that a play structure be allowed in that area. Mrs. McMaster said that grass does not grow in the area. Ms. Miller suggested that, after the log pile is removed, wood chips of the playground variety could be installed. She said that the McMasters would need to reapply for a play structure that requires footings, or pilings, but a small play/swing set would be acceptable. She noted that a playhouse would need further permits.

Upon further discussion and review of the materials presented, the following motion was made: That the Commission approve with conditions Wetland Permit Application #EPC-61-2004. The application is approved with the condition that the log pile be removed from the regulated area. The Commission approves the use of the area for a swing set placed upon a base of natural, untreated woodchips. The work is approved as shown on the sketch of the fence location overlaid on the plan

entitled "Plot Plan Prepared for Barry & Casaundra McMaster, 2 Brown Street, Darien, Connecticut" by Land Surveying Services, last revised 06-05-04, submitted to the Planning and Zoning Office on June 9, 2004. The motion was made by Mr. Hillman, seconded by Mr. Hutchison, and unanimously approved

Chairman Hillman read the following agenda item:

Continuation of 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' south of the intersection of Middlesex Road and Old Parish Road, shown on Assessor's Map #19 as Lot #37.

The Commission tabled Application EPC because the applicants were not present.

New Business:

Chairman Hillman read the following agenda item:

EPC-69-2004, Donohoe Associates Architects on behalf of Tracy & Gene Sykes, 14 Cross Road, proposing the amendment of the Town Wetland and Watercourses Map. The property is located at the northwest corner of the intersection of Cross Road and Homewood Lane, shown on Assessor's Map #65 as Lot #3.

John Donohoe as present of behalf of the application.

Chairman Hillman said the Commission has reviewed the materials and the application appears to be straightforward. Mr. Donohoe said the wetland soils were delineated when they were investigating a location for the septic reserve area shown on the plan, and that they found less wetlands on the site than shown on the Town's wetland boundary map.

Upon further discussion of the materials and plans presented, the following motion was made: That the Commission accepts the soils delineation by JMM Wetland Consulting Services, LLC, as confirmed by the 6/17 on-site soil investigation report, and shown on the plan entitled "Property of Tracy & Gene Sykes, 14 Cross Road, Darien, Conn." by S.E. Minor & Co., Inc., revised August 5, 1993. The Town's wetland boundary map will be updated in December 2004 to reflect this new determination. The motion was made by Mr. Hillman, seconded by Mr. Hutchison, and unanimously approved

Chairman Hillman read the following agenda item:

EPC-65-2004, Nicole & Christopher Eades, 29 Birch Road, proposing the reconstruction of a deck and rear entrance portico, installation of new masonry landing and relocated steps, and perform related site development activities within a regulated area. The property is located on the west side of Birch Road approximately 570' south of the intersection of Point O' Woods Road and Birch Road, shown on Assessor's Map #11 as Lot #2.

Scott Raissis, Architect, presented the application on behalf of the Eades and addressed questions from the Commission. Mr. Hillman stated that he did not see the need for a public hearing.

Mr. Hillman asked if the property is maintained as lawn. Mr. Raissis replied that it is, and that the proposed deck would encroach 129 square feet into the regulated area. He said that the other proposed encroachment was the proposed stairs. He explained that the deck would be constructed in line with the existing wall and set on sonotubes, and its landing would be set on stone dust. Additional encroachment to the setback includes shifting the stairs down. He added that no trees would be removed for the proposed work. Ms. Miller asked proposed encroachment within the regulated areas. Mr. Raissis replied that the construction would be approximately 15' into the setback area and approximately 36' from the wetlands at its closest point. Mr. Raissis said that they would reduce encroachment of the existing portico by approximately 28 square feet, and would cut back on impervious area. He explained that the existing roof would be reconstructed in different style within the regulated area.

Mr. Hillman referred to the soils report by Soil Scientist Henry Moeller, which says that the existing stonewall protects the wetlands from the work area. Mr. Raissis added that silt fencing would be used during construction to further protect the wetlands.

Mr. Kenyon inquired about the existing swing set. Mr. Raissis replied that the set is not cemented in ground, but moveable. Mr. Kenyon recommended that the swing set be relocated to an area outside the 50' setback. Mr. Raissis said that it could be moved, but that he was concerned that it be kept within the sight line from kitchen.

Ms. Cameron asked about drainage from the driveway. Mr. Eades replied that he is approximately 99-percent certain that the drainage at the base of the driveway goes into the pipe that connects the street to Cherry Lawn Park. Mr. Eades said the greatest sloped area on the property is located adjacent to the roadway.

Upon further discussion and review of the materials and plans submitted, the following motion was made: That the Commission approve the application, as submitted. The work is approved as shown on the plan entitled "Zoning Location & Topographic Survey, 29 Birch Road, Prepared for Christopher Eades & Nicole Eades, Darien, Connecticut" by William W. Seymour & Associates, P.C., dated June 3, 2004. The motion was made by Ms. Miller, seconded by Mr. Lewis, and unanimously approved.

Chairman Hillman read the following agenda item:

EPC-66-2004, Corlaw Investors, LLC, Hanson Road, proposing a sewer extension and perform related site development activities within a regulated area. The project area is located 500' west of the intersection of Linda Lane and Hanson Road, extending west approximately 2,000' to the intersection of Hollow Tree Ridge Road and Hanson Road, shown as the Hanson Road right-of-way on Assessor's Map #9.

William Kenny, Soil Scientist and Wetland Scientist, of William Kenny Associates, presented the application on behalf of the owners. Mr. Kenny explained that the application proposed the installation of a low-pressure sewer main that would service the new residence approved by the

EPC over a year ago (EPC-55-2002). Mr. Hillman invited the public to the front of the room to view the proposed plan. Mr. Kenny said that the project area is bound by Linda Lane on east and Hollow Tree Ridge Road on west, and informed the EPC that Barry Hammons, P.E., is the project manager.

In response to a question, Mr. Kenney explained that the installation method would pose a minimal amount of disturbance. He said that individual pumps would be installed for each residence, and that main line would have an emergency shutoff. He said he was not certain if the line would have a generator. Peter Corbett explained that the Town has used the same system for other projects.

Ms. Kirby inquired about funding. Mr. Kenny replied that other residences on Hanson Road could connect, and a second line would be installed in case more residents are interested. He reported that the Darien Sewer Commission supports the project and that Corlaw Investors would pay for the construction, and, as other residents connect, the owners would pay the Town, who would then pay Corlaw Investors. Mr. Corbett said that approximately 60 systems like the proposed have been installed within the Town. He said that the wetland approval for a residence at 76 Hanson Road was granted after an approximately two-year process and is contingent on the installation of the sewer prior to the issuance of zoning and building permits. He said that they are taking the financial risk that no other property owners would want to connect to the sewer. As other residents tie into the line, they pay the Town a fee, which the Town in turns pays to the applicant to compensate for the cost of the sewer installation. Ms. Cameron asked if owners on Hummingbird Lane would be able to connect. Mr. Corbett replied that a junction box would be installed at intersection of Hanson Road and Hummingbird Lane in case anyone from Hummingbird Lane would want to tie into the new sewer line.

Mr. Hillman noted that the application included particularly informative materials about the sewer installation

Mr. Lewis noted that silt fencing and hay bales are proposed, and informed the applicant that the sediment and erosions controls need to be maintained. Mr. Corbett agreed that the sedimentation and erosion controls would be maintained, and added that the controls for the new residence at 76 Hanson Road would be maintained and the required stonewall would be installed prior to the house construction.

Mr. Kenny said that the construction would be maintained within the existing paved roadway. The brook crossing would be conducted with either horizontal drill or excavating on either side of the culvert and breaking through with a jack. He said that the man holes would be installed on either side of the culvert so that if there were a future problem with that section of the line, there would be the ability to pump from one side of the brook to the other through the man holes. He noted that the line would have a double-sleeved design.

Upon further consideration and discussion of the materials and plans presented, the following motion was made: That the Commission approve with conditions the application. The application is approved with the condition that silt sacks be installed within all catch basins within and adjacent to the project area. The work is approved as shown on the plan entitled "Proposed Sewer Design,

Prepared for Corlaw Investors, LLC, Hanson Road, Darien,” Sheets 1 to 3, by Hammons LLC, dated July 1, 2004. The motion was made by Ms. Kirby, seconded by Ms. Miller, and unanimously approved.

Chairman Hillman read the following agenda item:

EPC-71-2004, Jane & David Ott, 80 Delafield Island Road, proposing native plantings to enhance wooded slope, and perform related site development activities within a regulated area. The property is located at the south corner formed by the intersection of Raiders Lane and Delafield Island Road, shown on Assessor’s Map #70 as Lot #44.

Ms. Miller said that the existing silt fence on the property needs repair. Thomas Ryder of Devore Associates agreed that the work would be done. Ms. Cameron said that the brook should be cleaned of sediments. Ms. Kirby said that she saw Mrs. Ott at the site and told her that the silt fence needed attention.

Mr. Hillman recommended that the applicant return with a plan to decrease sedimentation within the brook, and, in the meantime, repair the silt fence.

Ms. Cameron requested the type of Maples planted in the regulated area be verified. She said that it is possible that the Norway Maple has been installed, and would need to be replaced with Red Maples. Ms. Miller recommended that the removal of sediments from the brook be done by hand.

Upon further consideration and discussion of the materials and plans presented, the following motion was made: That the Commission approve with conditions the above-referenced application. The application is approved with the following stipulations, to be implemented in the order listed:

1. That the existing silt fence be replaced and re-staked, as needed.
2. That the stream be cleaned of sediments by hand. The sediments may be dewatered upland of the silt fence, but then must be removed from the regulated area.
3. The approved planting plan may be implemented after the watercourse is cleaned.
4. Provide information regarding the type(s) of maples planted within the regulated area, as previously approved by the Commission.

The work is approved as shown on the plan entitled “Regulated Area Planting Plan, Ott Residence, 80 Delafield Island Road, Darien, CT” By Devore Associates, LLC, dated 7/132/04. The motion was made by Mr. Hillman, seconded by Ms. Cameron, and unanimously approved.

Chairman Hillman read the following agenda item:

EPC-68-2004, David Martin & Ann Reed, 15 Libby Lane, proposing reconstruction and expansion of an existing garage, addition, removal of a portion of an existing tennis court, and perform related site development activities within a regulated area. The property is located on the east side of Libby Lane approximately 540’ north of the intersection of Libby Lane and Middlesex Road, shown on Assessor’s Map #9 as Lot #61.

David Goestch, A.I.A., presented the application and addressed questions from the Commission. Mr. Goestch distributed site photographs with legend to the Commission. He explained that the application proposes the reconstruction of the garage, which would be no closer to the wetlands and

is limited by the side yard zoning setback. He said that the garage would bump out 5', in line with existing garage, to create a mudroom entrance, and referred to Photographs F. He said that the existing a.c. condenser would remain, there would be no regrading or tree removal, and that silt fencing would be installed during construction.

Mr. Hillman asked if plantings would be installed in the area. Ms. Cameron recommended that a 3' wide Pachysandra buffer be installed between the brook and level lawn. Mr. Goestch said that the edge of the wetlands stops at the top of the slope, and that there is an existing Pachysandra bed next to the stream. Ms. Cameron said that she is not sure if the existing Pachysandra strip is sufficient. Mr. Goestch said that the brook edge becomes more vegetative as it moves toward the back of the property, but that there is less room for plantings near the garage. Mr. Hillman said that he agrees with Ms. Cameron that more plantings are needed.

Mr. Goestch explained that they need to remove part of the existing tennis court to bring the property into compliance with zoning coverage requirements.

Ms. Miller reported that she observed brush piles and old Christmas trees within the regulated buffer beyond the tennis court, and informed the applicant that the area should not be used for the storage of wood and yard waste materials. She said that the pile is small now, but should not be increased.

Upon further consideration and discussion of the materials and plans presented, the following motion was made: That the Commission approve with conditions Wetland Permit Application #EPC-68-2004. The application is approved with the condition that a 3' wide planting bed be installed along the edge of the wetland, beginning at the new garage and tapering into the existing vegetation to the northeast of the residence. The work is approved as shown on the plan entitled "Zoning Location Survey of #15 Libby Lane, Prepared for David R. Martin & Ann B. Reed, Darien, Connecticut" by William W. Seymour & Associates, P.C., dated March 19, 2004, last revised July 7, 2004. The motion was made by Mr. Hutchison, seconded by Ms. Cameron, and unanimously approved.

Chairman Hillman read the following agenda item:

EPC-64-2004, John Capiello, 26 Lake Drive, proposing fill and regrading associated with the removal of an unauthorized pool, and perform related site development activities within a regulated area. The property is located on the north side of Lake Drive approximately 1,500' west of the intersection of Hoyt Street and Lake Drive, shown on Assessor's Map #30 as Lot #9.

Mr. Capiello explained that he installed the previously existing unauthorized pool. Mr. Hillman asked Mr. Capiello if he knew his property is regulated. Mr. Capiello replied that he did not know that there is a 50' setback from the wetlands. Mr. Hillman said that he is pleased with the remediation. Mr. Kenyon asked if Mr. Capiello had any future plans. Mr. Capiello said that the restored area would be lawn and would still be fenced in. Ms. Kirby reported that brush and grass clippings have been disposed of in the wetlands. Mr. Capiello replied that the dumping issue would be addressed.

Ms. Sarner said that, as a next step, Mr. Capiello must show flood information to the Planning and Zoning Commission staff to determine if a Flood Damage Prevention Permit is required.

Upon further consideration and discussion of the materials and plans presented, the following motion was made: That the Commission approve with Wetland Permit Application #EPC-64-2004. The application is approved with the condition that the yard debris deposited behind the property on Aquarion Water Company land shall be removed and properly disposed of. The motion was made by Mr. Hillman, seconded by Ms. Cameron, and unanimously approved.

Chairman Hillman read the following agenda item:

EPC-67-2004, Gordan & Alta Jelliffe, 77 Brookside Road, proposing an accessory structure, installation of a sewer lateral and connection to town water, and perform related site development activities within a regulated area. The property is located at the southwest corner of Brookside Road and Granaston Lane, shown on Assessor's Map #15 as Lot #19.

Mr. Jelliffe, property owner, and Mr. Cerretani, contractor builder, presented the application. Mr. Hillman said that there are potential issues and questions because the subject property is an unusual site and is located within 100' of the Goodwives River. He explained that, traditionally, applications located near the river have been scheduled for public hearings, so scheduling a hearing is not a prejudgment of the Jelliffe application. He explained that the hearing process would give notice of the application to interested parties. He said that in his own opinion it requires a public hearing, and invited the other Commission members to comment. Mr. Kenyon agreed that a public hearing should be scheduled, and requested that the proposed plan be updated to show the 100' setback from the Goodwives River, site elevations, and lot size and coverage. Mr. Hutchison compared the site with the O'Hare property at 45 Brookside Road, which provided an improvement to the riparian buffer after working with the EPC. Ms. Cameron said that she felt the proposal might pose environmental impact, and expressed concern regarding the amount of trees to be removed. Mr. Jelliffe said that approximately ten 8" Sumacs would be removed, and informed the EPC that the area of the cottage near the eastern lot corner has been marked on the site.

Mr. Hillman requested that copies of Mr. Jelliffe's photographs be provided before the hearing. Ms. Cameron said she would like to see the structure shifted further away from the river and wetlands. Ms. Miller said that the area is not manicured, and contains a compost area and bird feeder. Mr. Jelliffe said that the guest cottage would not have a kitchen. Ms. Sarner said that the zoning regulation would not allow a kitchen so that the guest cottage is not a second residence. Mr. Hutchison inquired to a possible lot division. Mr. Jelliffe said that he might do so later, but no kitchen proposed now.

The Commission summarized that they would like to see an updated survey, site photographs, and the cottage in a location further away from wetlands and the river, and granted permission for Mr. Jelliffe to trim adjacent trees. The public hearing would be scheduled for September 8, 2004 meeting.

Public Hearing:

Chairman Hillman read the following agenda item:

EPC-51-2004, Elizabeth Stanley-Brown & Peter G. Horan, 7 Fresh Meadows Lane, proposing the construction of a pool with surrounding patio, the removal and reconstruction stone-retaining wall, tree removal, installation of wetland plantings, and perform related site development activities within a regulated area. The proposed swimming pool has been withdrawn by the applicants. The property is located on the east side of Fresh Meadows Lane approximately 430' north of the intersection of Middlesex Road and Fresh Meadows Lane, shown on Assessor's Map #25 as Lot #92-3.

John Pugliesi, P.E., presented the application on behalf of the applicants, and distributed additional information. He reviewed wetlands and drainage from the 1992 Fresh Meadow Lane subdivision, and noted that the flagged wetlands are located within a naturally low area. He said that the area had a previous flooding problem prior to the installation of the floodgate and culvert that crosses the roadway to Noroton River, as part of the subdivision approval. He reviewed the 1992 subdivision plan, noting that the flood elevation reached 38.33'. He said that this elevation was taken into consideration with the wall design. He said that the existing wall had been installed to save the significant sized Maple, which have died and become hazardous to the residence and people. He said that they are therefore requesting permission to cut the tree and create more yard area.

Mr. Pugliesi explained that a landscape architect has redesigned the yard and wall, eliminating the previously proposed swimming pool. He said that a spa has been proposed within the patio/deck area. In response to a question, Mr. Pugliesi said that the "spa" would be a hot tub. He reviewed that proposed activities included fill, installation of grass steps, installation of a fire pit and plantings along with the use a field meadow mix. He explained that the wetlands are overgrown with many invasive species, which would be removed to allow new plants to take root. He said that the drainage analysis that was done for the larger, original project that included the pool showed that only a minor increase in runoff is anticipated.

Matt Fielding, L.A., of Marders of CT, reviewed site photograph, noting that the large Maple is a hazard. He said that the existing patio and wood deck create unusable corners, but that the new deck and patio areas would improve the site. The deck would be approximately 18" above grade, and the on-grade patio would be set in stone dust and encroach upon the setback area. He reviewed that the plantings for the wetlands, explaining that the existing invasive species include Black Locust, Japanese Knotweed, Burning Bush, Virginia Creeper, and Bittersweet. He said that they would remove the invasives to improve the wetlands environment and replace them with native, noninvasive species to beautify and improve the wetlands for others and the environment. Ms. Cameron asked how they would remove the Knotweed. Mr. Fielding replied that the removal of the invasives would require continuous maintenance through handpicking new growth. He said that the Knotweed would be hard to control and completely remove.

Mr. Hillman asked how far the spa would be from the wetlands. Mr. Pugliesi replied that the spa is proposed outside the 50' setback but a portion of the patio and deck would be within the regulated area. Ms. Cameron said she liked the wetland remediation plan but does not see the need to fill setback. Mr. Pugliesi said that the fill is proposed to create more useable space in the rear yard and would remain a pervious area. He said that it is too bad that the large Maple died from construction impact. Ms. Cameron asked the applicant to justify the proposed tree removal. Mr. Pugliesi replied that since the trees were "minor" trees, including Maples and Sycamores, he did not feel a greater reason was needed. Ms. Cameron explained that the trees provide a function to the area. She said

that with the approvals for the construction of the residence and garage addition, the useable, upland area had been maximized, so the owners would know how limited the area is. Mr. Pugliesi said garage addition was constructed over an existing driveway area and did not pose a new impact. He said that the subdivision proposed the wall to be closer to the wetlands, but it had been moved back to save trees and be further from wetlands. Ms. Cameron noted that the subdivision approval did not bring the wall out to the property line. Mr. Pugliesi said that the pipe would allow the conveyance of stormwater, and reported that a neighbor, Mr. Voges, is proposing a similar project but not within wetlands setback. He said they would continue the neighbor's pipe to convey stormwater. Mr. Pugliesi agreed that the site is a tight lot, but since the existing backyard is limited, it would become worse if they moved the proposed wall to save the trees along the property line. Ms. Cameron asked how much fill is proposed. Mr. Pugliesi estimated that the fill area would be approximately 30 square feet. He said that the rear wall would be concrete wall, and a stockade fence would be installed to screen it from the neighbors. Mrs. Stanley-Brown said she met with her neighbor Mrs. Johnson, who did not have any concerns with the application. She said that the garage addition was constructed to create a third car bay since they had suffered four break-ins of cars within nine months.

Mr. Hillman said he would like to hear from the public, and welcomed Mr. Lee Fingar to speak. Mr. Fingar of Save Darien's Wetlands expressed concern regarding the proposed tree removal within a floodplain area. He explained that trees absorb a tremendous amount of water, and that a 10" dbh tree absorbs 58 gallons per day. He said he understood that they would try to mitigate drainage by adding the pipe. He said that he does not question that it is a bad situation, but is concerned that the project would make it worse, and that the application threatens additional flooding to the neighbors. He stated that it is his opinion that nothing should be done because the subdivision allowed for the construction of large homes located close together for the sized properties created. He added that the Planning and Zoning Commission may have other restrictions.

Mr. Pugliesi replied that the property is no longer in the floodplain of the river. He explained that the proposed drainage would address spring time flood issues, and that the floodgate at the roadway culvert prevents the river from flooding homes. He said that 38.3' had been determined to be the new flood height, and that drainage calculations were submitted with the application. He said the project would not decrease flood storage, and neighbors would not be flooded as a result of the project.

Mr. Fingar asked when the residence was built. Mr. Pugliesi estimated that the construction occurred in approximately 1992 or 1993. Mr. Fingar said the subdivision did not go through the flood in the 1970's. Mr. Pugliesi explained that the analysis was based on flood models, and that the regulated flood elevation in Darien is 42'.

Mr. Hutchison asked Mr. Pugliesi to compare the original proposal and revised plan. Mr. Pugliesi reviewed the two plans. Mr. Hillman said it was no question that the older Maple could be removed. Mr. Hutchison said if they do not save the trees, the wall could be constructed with a tighter arch than the original plan. Ms. Cameron said she is not concerned with proposed grass steps, but with the rear wall. Mr. Pugliesi said area of steps is closer to the wetlands. Ms. Cameron inquired to the purpose of the proposed wall. Mr. Pugliesi said that it would convey water along back property line. He explained that there are inground infiltrators in the front yards

of all the homes in the subdivision that tie into river. Ms. Cameron asked about drainage near the neighbors along the back property line. Mr. Pugliesi replied that the natural grade would allow the water flow to the wetlands area. Ms. Cameron said that it might be better to leave the area as is instead of trying to "fix" it. Mr. Hillman said that he feels the proposed fill activity would be too close to the wetlands. Mr. Pugliesi stated that if the Commission had felt that way in 1992 with subdivision, would have less regulated area because the subdivision drainage alterations contributed to the growth of the wetlands area on and adjacent to the subject property. Ms. Cameron said that the disturbance from the subdivision contributed to the spread of the invasive species. Mr. Pugliesi said that they planned to remove the invasives and replant the wetlands area. Ms. Cameron said that the replanting would be difficult due to the aggressive nature of the invasive species. Mr. Fielding said that they would need to control and maintain the invasives.

Ms. Miller asked how often the existing oil/grease separators are maintained. Mr. Pugliesi replied that since it is the responsibility of the homeowners association, he does not know. Mr. Hutchison asked if the area near the wall is wet. Mr. Pugliesi replied that he thought the wetlands were "dry" wetlands.

Mr. Hutchison said that he would feel more comfortable if letters from neighbors had been received. Ms. Cameron said it is a problem that there is not a lot of groundcover vegetation within the wetlands. Mrs. Stanley-Brown said she had not been aware that she could not clear and mulch the area.

Ms. Miller said that the deck might be acceptable. Ms. Cameron recommended that the steps be pulled back further away from the wetlands and that the no fill be added near the rear wall. Mr. Pugliesi said the fill is proposed because the owners want a play area. Ms. Cameron said that the owners might need to decide between their desire to have a large deck/patio area with space or a play area. Mr. Kenyon said he feels that the drainage installed with trap rock would keep the area dry. Mr. Pugliesi said that a larger pipe is proposed instead of a smaller one so that maintenance is less of a concern. Mr. Kenyon said he has seen it work. Mr. Pugliesi said pipe would convey water, but if does clog, the grade would convey water as it hits the wall. Ms. Cameron said that it would be a change to the artificial conveyance. Mr. Pugliesi said that the water would infiltrate into the lawn, then run through the stone to the pipe, and it would be the same situation as on the Voges property. He noted that the water would still infiltrate into the ground. In response to a question, Mrs. Stanley-Brown said eleven trees are to be removed. Mr. Fielding said that the plan proposes the replacement of the lost trees with ten trees and twenty flowering shrubs. Ms. Cameron asked if River Birch become infected with a leaf minor. Mr. Fielding replied that they do not.

Mr. Hutchison asked why the flow was not piped under the subdivision approval. Mr. Pugliesi replied that the wall was built away from the property line to maintain drainage. He said he could not answer why the flow was not piped, but speculated that a less expensive alternative had been chosen, and noted that existing wall is not in the best shape.

Mr. Kenyon asked if the owners had safety concerns regarding the retaining walls. Mrs. Stanley-Brown replied that they have children from ages six to fourteen, and that one did fall off the wall and broke his arm. Mrs. Stanley-Brown said that her third child was born right before they moved to the property.

Ms. Cameron asked if trees would be planted along the proposed fence. Mrs. Stanley-Brown replied that they had not initially intended to, but were open to installing additional plantings. Ms. Cameron noted that the removal of the trees would decrease screening, and that although it is not an EPC concern, she thought she would let the owners know it could be an issue. Mrs. Stanley-Brown said that her neighbors told her that they would replant if needed to for privacy.

Ms. Cameron asked if the trees would survive. Mr. Fielding said that he feels that the trees would survive, but that they could create planting pockets with more soils on upland, upper lawn area because lower area would have the drain. Mrs. Stanley-Brown said that Mrs. Johnson would be happy with the proposed cluster near house, but that they could plant near wall if needed. Mr. Fielding said that the neighbor's property has 10' trees near the shared property line. Ms. Cameron expressed concern that the proposed fill would impact the tree root zones because the roots would be suffocated. Mr. Pugliesi replied that, although he is not an arborist, he feels that the trees would survive since they would still have part of their root system on the neighbor's property. He said that they like the look of stonewall but needed concrete so that water would not come through. Mr. Hutchison recommended that the re-talk with the neighbors to make sure they are comfortable with the changes proposed. Ms. Cameron recommended that tree wells be installed around tree root zones to protect the neighbors' trees.

Ms. Miller said that they would need to mow the fill area. Mr. Pugliesi replied that they would, as well as the grass steps. Ms. Cameron recommended that chemical use be restricted on the new lawn areas and that she heard that Marders of CT is a highly regarded company for organics. Ms. Cameron recommended that the EPC relook at the property to determine which trees could be saved.

Ms. Kirby inquired about the proposed fire pit. Mrs. Stanley-Brown replied that it would be a 4" high structure or stone well used for heat, ambience, and making s'mores, but not cooking. Mr. Kenyon recommended that it be located outside of the regulated area. Mr. Fielding said that its location was chosen to make the property feel longer. Mr. Horan said that with the existing triangle deck, nothing had been done with the backyard, and that the children play in the front yard. He said that they, although they did want a swimming pool, they omitted it from the plan, and that he feels that if the wall location were changed, it would reduce the desired useable area of the yard. He said they wanted to make the backyard and wetlands beautiful and still respect the resources. Ms. Cameron noted that the proposed restoration plan would increase biodiversity on the property.

Mr. Hillman closed the public hearing for Application #EPC-51-2004.

Chairman Hillman 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' southeast of the intersection of Goodwives River Road and Old King Highway South, shown on Assessor's Map #63 as Lot #106-A.

David Mangini and Casey Elliot for Somerset Builders, and Don Strait, L.A., of Grumman Engineering presented the application. Atty. Kramer, Glen Barnard, A.I.A. and Dean Martin, PE present for questions.

Mr. Hillman reviewed that the Commission has received the following information: a letter of authorization from the current property owner, Bonnie Tweedy; an August 3, 2004 letter of support from Judith Groppa of the Historical Society, and a July 29, 2004 memorandum from Vince Proto RS, Director of Environmental Health stating that the approval of a code-complying five-bedroom residence is pending house plan review.

Mr. Hillman said that he found the environmental assessment report by John Anderson of Environmental Land Solutions to be lucid and comprehensive, and that he read the other application materials. He commented that the application is unusual because they are proposing installing a second septic system on the property. He noted that the kitchen in the cottage would be removed so that there is no zoning conflict. He said he had assumed that the cottage would have some historical value, so did not consider the option of removing it too long. He said that, in his opinion, that option is a non-starter that can be considered and rejected. He said that the cottage septic system, which was located on the map pursuant to an EPC request, could not be taken out because it services the cottage.

Ms. Cameron stated that the EPC had requested that the trees to be removed should be marked in the field. Mr. Elliot said that it had been an oversight, although it is in his notes. He said that Mr. Strait has submitted a list of the trees to be removed to the Planning and Zoning Office. Ms. Cameron said she found her copy of the list. Mr. Hutchison inquired about any tax reduction granted for the property. He said that it would appear on the Assessor's field card. He explained that if the Town has taxed the parcel as a buildable lot, he believes they have the right to build. Mr. Mangini said that they found an old survey showing a house in the location of the proposed residence. Mr. Anderson reported that there is a depression in the flatter area where a service road had existed, and that the finding of no cobbles indicates that the land has been worked before. He said that a remnant foundation had been found and that he thinks the driveway came in on the right side. Ms. Cameron said she saw the depression but did not associate it with a prior development.

Ms. Miller inquired to the number of bedrooms for the proposed residence. Mr. Mangini replied that the residence would have five bedrooms. Ms. Miller asked if it could be reduced to four bedrooms. Mr. Hillman reported that he had read within the application materials that there would be no change in the size of septic from five bedrooms to four bedrooms, but that the five-bedroom residence would be financially beneficial. Mr. Hillman said that he thought that enough evidence has been shown that the construction of a four-bedroom residence would be counter productive.

Mr. Miller recommended that the driveway court be reduced. Mr. Strait said that the driveway would be approximately 24' from wetlands. Mr. Mangini said that the driveway design was difficult because of the steep grade. He said that he had been advised that if it were moved over, it would be unusable. Mr. Elliot said that they tried to preserve adjacent trees. Mr. Hutchison asked if the jog in the driveway could be eliminated. Mr. Barnard replied that they needed a 35' turnaround area to maneuver in and out. He said that were trying not to avoid creating areas suitable only for a k-turn and allow room for a suburban vehicle. He said that the driveway and

garage would be screened from the road. Mr. Anderson said that they acknowledge that they would encroach upon the setback areas so have proposed an aggressive plantings that include woody shrubs and a tall grass filter strip.

Ms. Miller asked if the driveway would be paved. Mr. Anderson replied that court area near garage would be paved. He said that the cottage driveway could be converted to pavers, but the cobblestone, which was made by an artisan who later became famous, would be preserved. He reported that the Red-back Salamander, which has been observed on the site, is an upland species but does not rely on a vernal pool for its life cycle.

Mr. Hutchison informed the applicant the existing pool, located behind the cottage, needs a fence. Mr. Mangini said that the old pool fence is standing but is in disrepair. Ms. Miller suggested that a "living pool" might be considered for the site. Ms. Cameron said that there are definitely frogs on the property. Ms. Miller reviewed the living filter report submitted with the application, which states that 63-percent of the site is required. She asked how the system would work, and noted that there is a lot of ledge in the area. Mr. Anderson explained that 63-percent of the area includes the wetlands and the setbacks. Mr. Martin of Grumman Engineering reported that they performed three test holes, and found sandy loam soils at 7' depth. He said they did not consider installing the system in the backyard because of the proximity to the wetlands and small brook, and explained that per health code they must maintain a 25' setback distance from the house. Mr. Anderson said that from an environmental stance, it would be better to install the septic in the front yard closer to Gorham's Pond. He said that installing the system closer to the wetlands would pose a greater impact because effluent would be quickly carried through the wetland soils to the watercourse then directly into Gorham's Pond. Ms. Cameron asked if nearby catch basins would be sealed in case of failure. Mr. Martin replied that the closest catch basins were 300' and 400' from the property.

Mr. Martin stated that a conservation easement is located along pond's edge, and is limited to the use of a future dock and to allow boat access to enjoy area. He said the area would be kept in its current condition.

Mr. Martin explained that a stormwater gallery would be installed below grade to store the increase in runoff volume. He said the gallery would be discharged through a level spreader. Mr. Hutchison stated that the wetland corridor would still capture and channel most of the stormwater, and that he did not feel that the residence would impact wetlands and drainage.

After being recognized by Chairman Hillman, Mr. Fingar of Save Darien's Wetlands, Green Team and the RTM, addressed the Commission and stated that it is important that to review the history of the area. He said that a septic system had been installed at 114 Goodwives River Road, next to roadway, within 50' of pond, and within the 200' setback for Gorham's Pond. He said that the Planning and Zoning and EPC staff were not aware of the septic installation. He said that the Health Department is now aware that they made a mistake not to require that the property be connected to town sewer if it is brought into the area. Mr. Hillman agrees that the requirement could be made a condition of resolution. Mr. Hutchison and Ms. Cameron agreed. Mr. Hutchison explained that 200' setback is required for EPC review, but is not necessarily a prohibited area. Mr. Fingar said that this was correct, and that EPC staff reviews all new septic systems. He stated that the Darien Sewer Commission is reviewing the installation of town sewer along Goodwives River Road. Mr. Fingar said that the empty nesters do not want to connect to the sewer, and that the

younger families have failing septic systems. He said that contractors would install an extension from Old Kings Highway South. Mr. Mangini reported that they are aware of the Sewer Commission's interest in installing a sewer main extension in the road, and have talked with the Commission but felt that a private installation may not be feasible since the town must convince a certain number of residents to connect in order to move forward. He said that they would be interested in tying into the sewer if it came to the area. Mr. Mangini said he was not sure if they would pursue the expense of a private installation, but would seek petition. Mr. Hutchison said that the sewer line is not supported because neighbors do not want larger homes to be constructed in the area. Mr. Mangini suggested that the sewer line could extend from Old Kings Highway South, but that they would need other property owners to connect. Mr. Casey said that it would not be approved and installed by the time they would construct the proposed house. Mr. Mangini said they would continue to pursue the sewer installation with the neighbors, and that they would need a majority of the eleven property owners within the area and some have already said that they would connect.

Mr. Fingar said he would continue to put pressure on Sewer Commission. Mr. Hutchison explained that the Sewer commission wants the installation. Mr. Kenyon stated that it is the property owners delaying sewers.

Mrs. Saralyn Woods, Goodwives River Road, said she had a question regarding the septic system and its setback distance from the drainage system. She said she thought it must be at least 25' from footing drains. She asked if it would be better closer to place the system closer to the wetlands or the footing drains. Mr. Martin replied that if the septic is too close to the drains, it could potentially pollute the wetland resources because the drains feed directly to the wetlands. He noted that the wetland would provide some mitigation to the effluent. He said that 85' distance from river better than 25' from the wetlands. Ms. Cameron said that Matthew Pollack from State might be able to review the plans, and that Mr. Proto might not have the same expertise regarding septic. She said that they have been questioned about septic systems that are close to rivers and ponds. Mrs. Woods expressed concern because she feels that exceptions have been granted down the road.

In response to a question, Mr. Martin explained that the retaining walls would not be drained toward the road because the area would be tiered toward the house.

Mr. Hutchison asked Mrs. Woods how she feels about the installation of sewers in the area. Mrs. Woods said that in the interest of the environment, the sewers area needed, but that she had completed the repair and rather large extension of her septic system approximately four years ago.

Mr. Martin explained that most local health officials are not engineers, which is why the state requires that the systems area designed by engineers, but that the officials review the plans to ensure compliance with state health codes. Mr. Hillman noted that Mr. Martin designed the proposed system, and asked him to review his credentials. Mr. Martin stated that he is a professional engineer with a degree in civil engineering. He has designed septic systems for twenty years in Vermont, Connecticut and New York, and has been with Grumman Engineering in Norwalk, Connecticut since 1989. He said that as part of the septic design process, he reviews soils percolation tests, test pits, and data, inspects the site for slopes, ledge, watercourses, and soil mottling, and accompanies health inspectors on site visits. He summarized that, based on his findings, he selects the area that he believes would be the best location for a septic system.

Mr. Hillman noted that no two sites would be identical. Mr. Martin agreed, but that you might have found more similarities 15 years ago when land was not as limited. Mr. Hillman asked how many systems Mr. Martin had designed in Fairfield County, Connecticut. Mr. Martin replied that it would be approximately 700 to 800 systems. He said that since 1989, he could recall only three systems that failed. He said that one of the sites had a very high groundwater and been previously filled, so there was no place for the effluent. He said that the site of the failing septic was very different the project site, which has nice loamy soils. Mr. Hillman said that it is his opinion that the proposed living filter septic system is adequate and safe. Mr. Martin said that it would be based upon new technology. He explained that the living filter is totally enclosed filter wrapped trenches filled with stone, and treats the effluent in two to three days. He said that after flowing through the 64" wide trench, the treated effluent is discharged into the groundwater. He said he has installed the living filter systems within Fairfield County. Ms. Miller inquired about the "living" part of the system. Mr. Martin replied that bacteria colonize the fabric interface.

It was the consensus of the Commission that the public hearing for EPC-58-2004, David Mangini & Casey Elliot, 40 Goodwives River Road, be closed.

Chairman Hillman announced that the discussion for EPC-54-2004, Friends of Goodwives River, Katy's Pond in the Goodwives River and for EPC-55-2004, Friends of Goodwives River, Upton Pond in the Goodwives River would be postponed until the August 11, 2004 meeting.

Adjournment: Having no further business to attend to, the Commission adjourned the August 4, 2004 meeting at approximately 11:00 p.m.

Respectfully submitted,

Nancy H. Sarner
Environmental/GIS Analyst