

ENVIRONMENTAL PROTECTION COMMISSION
GENERAL MEETING & PUBLIC HEARING
MEETING MINUTES
DECEMBER 1, 2004

Commission Members Present: Peter Hillman, Nina Miller, Susan Cameron, Ellen Kirby, Ned Lewis and Reese Hutchison

Commission Staff Present: David Keating

The meeting was called to order at 7:30 P.M. in Room 119 of the Darien Town Hall.

General Meeting:

Old Business:

Chairman Hillman read the following agenda item:

Requested Amendment of EPC-55-2002, CorLaw Investors, LLC, on behalf of Daphne Cochran & Michael Van Der Kieft, 76 Hanson Road (a.k.a. 75B Hanson Road), requesting interior modifications and increase in volume and floor area of approved residence. The property is located on the south side of Hanson Road approximately 500' west of the intersection of Linda Lane and Hanson Road, shown on Tax Assessor's Map #9 as Lot #106.

The original Permit for this development was granted in 2002 and a request to amend the building was already approved in March of 2004. Peter Corbett explained that the additional changes and refinements do not change or expand the building footprint but will allow for more second floor area and creates a larger attic but, the attic will not be finished. He said that they would be willing to accept a stipulation that no portion of the attic can be converted to finished space without an amendment of the Permit from the Environmental Protection Commission.

EPC members noted that the original application had involved a public hearing but, in this case there is no notice being provided to the neighboring property owners about the requested changes. One Commission member noted that Mrs. Baumgartner had originally been very concerned about the height of the building and the proposed changes do involve increasing the height of the peak or ridge line of the building. Commission members said that a larger house would mean a bigger family and this could impact on the wetlands, however, the original approval did clearly require that there be a clear delineation with a wall to separate the usable portions of the yard from the wetland portions of the property that will not be disturbed.

Wetlands Enforcement Officer David Keating said that the house was already squeezed into the site and that increasing the volume of the house will be of no benefit to the wetlands and would likely cause a larger size family to live in the residence and they will feel a need to expand their usable space and outside lawn areas into the wetland areas.

Commission members reviewed the original approval and the amendment already approved in the spring of 2004. After much discussion, the following motion was made: that the Commission approve the requested amendments with the stipulation that no portion of the attic be converted into

finished or habitable or living space without a prior amendment of the Permit from the Environmental Protection Commission. The motion was made by Mr. Hillman, seconded by Mrs. Miller. Voting in favor of the motion were Messrs. Hillman and Lewis and Mmes Miller and Kirby. Mrs. Cameron voted in opposition of the motion. Mr. Hutchinson abstained. The motion therefore passed by a vote of 4 to 1..

Chairman Hillman read the following agenda item:

Discussion of Sediment and Erosion Controls for the Darien High School Project, EPC-49-2001, Board of Education, 80 High School Lane.

Matthew Popp of Environmental Land Solutions and Joseph Canas of Tighe & Bond Consulting engineering firm explained that they had inspected the site by thoroughly walking the site on November 22, 2004. A field report was forwarded to the contractor. It was noted that some of the environmental issues raised in that field report had previously been raised and had not been addressed since the previous month or since April. They explained that there is a need for constant maintenance of sediment and erosion controls and although the general contractor, Guerrero, and the overall site manager, O & G, acknowledged that there have been some environmental controls that have not been properly maintained, the problem does not seem to get fixed.

Mr. Hillman said that Holly Lane residents have complained that the new football field seems to have increased the flooding conditions downstream. Holly Lane is downstream from the High School site. He said that he understands that this matter will be discussed at the Selectmen's meeting of December 2nd and that further investigation needs to be undertaken by the neighbors and the High School Building Committee. Mrs. Cameron said that she notes that there have been drainage modifications made in the northeast corner of the site at the end of Noroton Avenue.

Peter Maglathlin, Chairman of the High School Building Committee, explained that the Committee is very concerned about the lack of response to the Environmentalists' reports. He said that the site manager is responsible for compliance with the Permits and Regulations and they seem to have been too busy doing other things to make sure that the contractor reinstalls silt fence and hay bales and anti-tracking pad. He said that the High School Building Committee plans to institute a practice whereby the general contractor has 7 days to correct the environmental violations and then a \$100.00 fine for each day for each violation will be assessed. The way that they will enforce this is that they will withhold that penalty or fine money from the payments made to the general contractor. He said that the Committee has been frustrated by the fact that the site managers have passed on the concerns to the general contractor but, the issues have not been corrected in a timely manner. The EPC members thanked the Building Committee for their decisive action.

In response to the drainage questions and the use of an artificial surface on the football field and how that might have impacted storm water runoff, Mr. Maglathlin said that he will investigate that matter further and will report to the Board of Selectmen.

The Commission members asked the consultants, Mr. Popp and Mr. Canas, to carefully monitor the situation over the next coming months and report to the Commission each month on the status of the erosion controls and other environmental protection measures.

Chairman Hillman read the following agenda item:

Continuation of the Review of Wetland Restoration Area for EPC-73-2002, Ian & Lisa Webb, 33 Knollwood Road, inspection to confirm that the plantings installed last year are thriving and the area still complies with restoration planting plan

The Commission will discuss this matter at a future meeting.

Chairman Hillman read the following agenda item:

EPC-102-2004, Monica & Todd Billeter, 24 Hamilton Lane, proposing underground utilities and perform related site development activities within a regulated area. The property is located on the south side of Hamilton Lane approximately 1,100' west of the intersection of Hamilton Lane and Brookside Road, shown on Assessor's Map 10 as Lot #26.

Monica Billeter submitted photographs of the existing site conditions highlighting where the Connecticut Light & Power official and contractor would like to dig the 30 inch wide, 30 inch deep trench in which to install the electrical service. The photographs show the low hanging wires and the fact that the trench will be placed between existing trees. It was noted that a PVC conduit will be installed in the trench so that all the trenching and backfilling can take place very quickly and then the wires can be pulled through the PVC conduit at a later date.

There being no further discussion, the following motion was made: that the Commission approve the application. The motion was made by Mr. Lewis, seconded by Mrs. Miller and unanimously approved.

Chairman Hillman read the following agenda item:

Discussion of Request for Confirmation of Wetland Restoration Planting, EPC-30-2004, Jeffrey & Karen Guice, 36 Arrowhead Way.

Mr. Keating reported that he had visited the site with the environmental consultant and confirmed that the planting and landscaping to stabilize the disturbed slope has been installed as required by the Restoration Plan. The environmental consultant had explained that the planting had taken place in July of 2004 but, because of the density of the existing vegetation, the new landscaping was difficult to see. The Commission members reviewed the letter requesting that the start time for the Performance Bond be listed as July of 2004. The letter also submits the Performance Bond to the Commission. The Commission members agreed that the Performance Bond start time will be July of 2004 and based on that, one-half of the Performance Bond can be released subsequent to July of 2005 if all the plants are still surviving and thriving. A motion to that effect was made by Mrs. Cameron, seconded by Mr. Hillman and unanimously approved.

Chairman Hillman read the following agenda item:

Review of restoration plan, and requested modifications of EPC-7-2004, Able Construction on behalf of Robert Okun, 1 Timber Lane, proposing modifications of the plans and the replacement of tree cut within a regulated area.

Peter Greenberg, contractor/builder for the project, explained that the revised driveway plan had been submitted to verify that the driveway has been moved a little farther from the wetlands. It is the same amount of impervious area but slightly farther away from the wetlands adjacent to Hollow Tree Ridge Road. A revised Planting Plan was also submitted and reviewed. It substitutes various types of species for plants which were not available. The revised Planting Plan also indicates that 10 six foot tall white oak trees would be planted to make up for the several large oak trees that were removed by the property owner. Mr. Greenberg explained that he is anxious to obtain the Certificate of Occupancy for the house and would try to plant the oak trees as soon as possible. If not, he would submit a \$1,000.00 Performance Bond to guarantee that the oak trees would be planted in the spring of 2005.

After further discussion, the following motion was made: that the Commission approve the revised driveway location and the revised Planting Plan with substitute plant species and the Restoration Plan for the installation of 10 six foot tall white oak trees. The trees must be planted prior to the issuance of a Certificate of Occupancy or a \$1,000.00 Performance Bond must be submitted to guarantee that the trees will be planted in the spring of 2005. The motion was made by Mr. Lewis, seconded by Mrs. Cameron and unanimously approved.

Chairman Hillman read the following agenda item:

New Business:

EPC 108-2004, David & Barbra Bell, 50 Buttonwood Lane, proposing asphalt driveway, stonewall, footbridge, path, and selective clearing and related activities within the regulated area. The property is located on the south side of Buttonwood Lane approximately 630' east of the intersection of Buttonwood Lane and Mansfield Avenue, shown on Assessor's Map #10 as Lot #48.

Mr. Keating explained that the Bells could not attend the meeting and need to provide more information for the Commission to review. The Commission tabled the matter until the next monthly meeting. By then, hopefully the applicant can provide more details about what vegetation must be thinned out and what vegetation might be cleared, a more clear soils map, a more detailed Planting Plan, how the pathways would be constructed and why the turn-around is proposed in and adjacent to the wetlands and the general clean-up of the construction activity in the regulated area.

Chairman Hillman read the following agenda item:

EPC-109-2004, Nick Jordan, 260 West Avenue, proposing construction of a two-car garage, addition, storm drainage pipe and related site work within regulated area. The property is located on the north side of West Avenue approximately 235' east of the intersection of West Avenue and Edgerton Street, shown on Assessor's Map #21 as Lot #4.

Mr. Jordan proposes construction of a two-car garage addition with a second floor living space above. Commission members asked why the addition could not be move farther from the watercourse and closer to the easterly property line. Mr. Jordan explained that the location of the watercourse was actually shifted in 1964 during previous construction activity. He has had to put blocks in the watercourse to try to stop the erosion of the embankment. He said that he could not move the addition farther to the east because the internal floor plan would not work out for the addition. With respect to other development activity on the site, Mr. Jordan said that he would

remove the shed from the rear portion of the property but would leave the concrete slab on which the shed is placed.

The Commission members discussed the application and several members felt that the application was not acceptable and that the design of the addition should be reconfigured to keep the addition farther away from the watercourse. Mr. Jordan said that another possibility would be to pipe the watercourse so that the watercourse would be kept farther away from the addition. Mr. Hillman expressed concern for the piping of the watercourse and said that a planted buffer area would normally be required to protect the watercourse rather than relocating it. Commission members indicated that if Mr. Jordan wishes to relocate the watercourse, he would need to submit detailed engineering plans and a letter of authorization from the neighbor by December 15, 2004 so that it could be considered at their January 2005 meeting. No action was taken on the application.

Chairman Hillman read the following agenda item:

EPC 110-2004, Woodway Country Club, 540 Hoyt Street (a.k.a. 412 Hoyt Street), proposing dredging of two ponds and maintenance activity within regulated area. The property is located on the west side of Hoyt Street approximately 2,000' north of the intersection of Hoyt Street and Woodway Road, shown on Assessor's Map #9 as Lot #137.

Mr. Keating explained that the applicant could not be present at the meeting. Several members of the Commission felt that it might be appropriate to conduct a public hearing since the project involves dredging of two ponds. Other Commission members believed that the pond dredging was a relatively minor matter of maintenance rather than a major project that could have significant impacts on the wetlands. The Commission members will discuss this matter at a future meeting when the applicant can be present to better explain the project.

Mr. Hillman read the following agenda item:

EPC-111-2004, Danielle Cambridge & Brook West, 19 Renshaw Road, proposing removal of several trees and replacement/repair of a stonewall along Stony Brook. The property is located on the south side of Renshaw Road approximately 440' west of the intersection of Boston Post Road and Renshaw Road, shown on Assessor's Map #41 as Lot #89.

Mr. West explained that the project involves the repair of an existing stone wall that has collapsed into Stony Brook. In order to facilitate the repair, they will need to remove several trees along the water's edge because the roots of these trees have pushed the wall over. In order to avoid building vertical retaining walls, the trees will need to be removed and the new replacement walls will be terraced back away from the water line of the brook. Mr. West said that all of the work will take place on his side of the brook because that is the extent of his property. He said that other sections of the wall have collapsed but, he cannot do the maintenance work on other people's property.

Mrs. Cameron noted that the trees to be removed are Norway maples which have now been classified by the Connecticut Department of Environmental Protection as an invasive species type of tree. In response to questions, Mr. West said that he will remove debris from the river and that he will be doing additional work on his house in the next few years.

The Commission members discussed the application and the following motion was made: that the application to remove several trees from the edge of the brook and to remove the fallen wall from the brook and to replace the wall in accordance with the plans submitted to the Commission is hereby approved. The motion was made by Mrs. Miller, seconded by Mr. Hutchinson and unanimously approved.

Mr. Hillman read the following agenda item:

EPC-112-2004, Douglas C. & Lynne S. Curtis, 10 Clock's Lane, proposing to demolish existing outbuilding, install a revised driveway and to construct an addition within regulated area. The property is located on the east side of Clock's Lane at the northeast corner of the intersection of Clock's Lane and Wild Rose Lane, shown on Assessor's Map #64 as Lot #62.

Commission members reviewed the plans to construct additions and alterations to the residence. They noted that the proposed work would not have any apparent impact on the wetlands and watercourses in the area and the following motion was made: that the Commission approve the application as submitted so that construction may take place within the regulated area. A motion was made by Mr. Hillman, seconded by Mrs. Cameron and unanimously approved.

Chairman Hillman read the following agenda item:

EPC-113-2004, Lisa Koorbusch, 12 Harriett Lane East, proposing additions, deck replacement and related activity within regulated area. The property is located on the north side of Harriet Lane East approximately 330' east of the intersection of Harriet Lane and Harriet Lane East, shown on Assessor's Map #36 as Lot #34.

It was explained that the application involves a property that is one-half of an acre in size on the west side of Harriett Lane East and the house was constructed in 1962. Two additions to the residence are proposed. The front addition won't be started for several years and it is far away from the wetlands although it is in the regulated area. The rear addition is closest to the wetlands (approximately 22 feet from the wetland area) and will be constructed in the near future. Matt Popp, of Environmental Land Solutions, said that he has reviewed the environmental aspects of the site and of the proposed development and sees no adverse impact due to the proposed construction.

Mrs. Cameron suggested that a three foot wide buffer patch of pachysandra, myrtle or other ground cover be installed at the edge of the lawn closest to the wetland area. Other Commission members agreed and also noted that there is no basement proposed with the proposed addition. The following motion was made: that the Commission approve the application for construction of both additions with the condition and stipulation that there be a 3 foot wide buffer area of ground cover planted at the edge of the lawn so that fertilizers, insecticides, herbicides and other materials used on the lawn will not be washed into the wetland area without first being filtered through the ground cover. The buffer planting must be completed prior to the completion and/or use of the addition at the rear of the dwelling (the addition closest to the wetlands). The motion was made by Mr. Hillman, seconded by Mr. Hutchinson and unanimously approved.

Mr. Hillman read the next agenda item:

EPC 114-2004, Country Club Homes, Inc. on behalf of Kevin Kulak, 86 Pembroke Road, proposing house and septic system installation, some of which is within the regulated area shown on the Town Wetlands and Watercourses Map. The property is located on the south side of Pembroke Road approximately 780' west of the intersection of Brookside Road and Pembroke Road, shown on Assessor's Map #1 as Lot #97.

Plans of the proposed development activity were reviewed and discussed. It was noted that the previous property owner had demonstrated to the Commission that there are no wetlands on the site and the wetlands map was amended accordingly. The proposed development activity by the new owner will involve some filling and regrading that is within 50 feet of wetlands that are still shown as being located on the neighboring properties but which the soil scientist indicates really are not wetlands as defined by the Statutes. Commission members indicated that they have visited the site and concur with the soil scientist's findings, but they noted that amending the wetlands map would be a long and complicated process at this time. Rather than doing that, the applicant has asked for a permit to conduct activities within what is technically a regulated area (within 50 feet of wetlands as shown on the Town map).

The following motion was made: that the Commission approve the Permit application to allow development activity in accordance with the plans submitted to the Commission. The motion was made by Mr. Hillman, seconded by Mr. Hutchinson and unanimously approved.

Chairman Hillman read the following agenda item:

EPC 115-2004, Friends of Woodland Park on behalf of the Town of Darien, 41 West Avenue, proposing dredging of Turtle Pond in Woodland Park and maintenance activities within regulated area. The property is located on the south side of West Avenue, south of the intersection of West Avenue and Laurel Lane, shown on Assessor's Map #24 as Lot #41.

Susan Cameron explained that she is a former member of the Board of Directors of the Friends of Woodland Park but was no longer on that Board. She felt that she could act in a fair and unbiased manner and therefore would participate in the discussion and decision regarding this matter unless anyone objected. No one objected to her participation.

Dot Kelly explained that the project involves the dredging of the leaves, sediments and other debris that have accumulated in Turtle Pond within Woodland Park. They would leave some logs and stumps for the wildlife to benefit from, but the main purpose is to remove the accumulated material from the pond so that it can function as a pond. At this time, it seems to be more like a swamp than a pond. Commission members reviewed and discussed the plans. There was a discussion about whether a sediment and erosion control Performance Bond should be required for a project like this because it is being undertaken by a non-profit group. In some ways, it is more appropriate to have a Performance Bond from a non-profit group because they have a less vested interest in the property and it would be more difficult to enforce fines and penalties if something goes wrong. The Commission agreed that it would be appropriate to have two separate votes on this application. The first vote would be about the project itself and the second vote would be about whether a Performance Bond would be required.

The following motion was made: that the Commission approve the dredging project to allow the work in and adjacent to Turtle Pond in accordance with the plans submitted to the Commission.

The motion was made by Mr. Hillman, seconded by Mrs. Kirby and unanimously approved. The following motion was then made: that the Commission require a \$1,000.00 Sediment and Erosion Control Performance Bond to assure that the sediment and erosion controls are properly installed and maintained and that the area is properly stabilized and revegetated. The motion was made by Mr. Hillman and seconded by Mrs. Kirby. All voted in favor of the motion except Mrs. Cameron, who believed that singling out dredging applications for these bonds was inappropriate. The application was approved with the condition that a \$1,000.00 Performance Bond be submitted.

Chairman Hillman read the following agenda item:

EPC 116-2004, Chris & Katie Glockler, 4 Fairmead Road, proposing construction of an addition within regulated area. The property is located on the side of Fairmead Road approximately 160' south of the intersection of Old Kings Highway North and Fairmead Road, shown on Assessor's Map #34 as Lot #24-A.

Mr. Hutchinson indicated that he has worked for the Glockers in the past but is not employed by them at this time and he does not anticipate to be employed by them in the foreseeable future. He felt that he could act on the application in a fair and unbiased manner but would step aside if anyone objected to his participation. No one objected to his participation.

The Commission members reviewed and discussed the application materials. Mrs. Cameron noted that the air conditioning units would need to be relocated to the street side of the chimney rather than being placed on the wetlands side of the chimney. Commission members agreed that there seemed to be no feasible and prudent alternative to the proposed location of the addition and that the addition would not adversely impact the wetlands on the site. The following motion was made: that, subject to relocation of the AC units, the Commission approve the application to construct the addition within the regulated area. The motion was made by Mrs. Miller, seconded by Mr. Hutchinson and unanimously approved.

Approval of Minutes: Meeting Minutes for November 3, 2004.

The following motion was made: that the Commission approve the minutes as presented. The motion was made by Mrs. Miller, seconded by Mrs. Cameron and unanimously approved.

Preliminary Discussion of Update/Revision of the Town's Inland Wetlands and Watercourses Regulations.

It was noted that Commission comments should be submitted by December 15, 2004 so that the process of amending the Regulations can continue.

Any Other Business (Requires two-thirds vote of Commission)

The following motion was made: that the Commission consider the Phillips matter on Leroy Avenue under other business. The motion was made by Mr. Hutchinson, seconded by Mrs. Cameron and unanimously approved.

The Commission members reviewed the letter from Mrs. Phillips indicating that she would submit the Performance Bond by January 15th rather than the original date which was specified by the

Commission. The Commission members agreed that such a modification would be acceptable. The following motion was made: that the Commission authorize the modification of the approval so that the \$5,000.00 Performance Bond will not be due until January 15, 2005. The motion was made by Mr. Hutchinson, seconded by Mrs. Cameron and unanimously approved.

PUBLIC HEARING (TO COMMENCE AT 8:30 P.M.)

Continuation of EPC-100-2004, David Mangini & Casey Elliot, 40 Goodwives River Road, proposing residential development, 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 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 Tax Assessor's Map #63 as Lot #106-A.

Commission members noted that this was a continuation of the public hearing that had been started the previous month. David Mangini reviewed with the Commissions the changes and modifications that had been incorporated into the current design. These modifications were in direct response to the Commission's action of "denying without prejudice" the previous application.

Mrs. Cameron expressed concerns about the living filter septic system because she spoke with Matthew Pawlik of the Connecticut Department of Health. She understands that the living filter septic systems are not typically used and there is some concern about the long term viability of these special types of septic systems. A copy of the memo from Vince Proto of the Darien Health Department was distributed for Commission members to review.

Dean Martin, the applicants' septic system designer, said that he too had spoken with Mr. Pawlik and has addressed Mr. Pawlik's concerns. He said that Mr. Pawlik could come to the site if requested by the local health official. He said that he understands that the Darien health official, Vince Proto, is confident that the septic system design meets or exceeds the State Health Code requirements.

Commission members noted that the resubmitted site plan is much better because it addresses many of the issues raised in the previously denied application. The activity is kept farther away from the wetland and watercourse and the septic system is on the opposite side of the site from the wetlands.

Commission members discussed the septic system issue and concluded that since the local health official was satisfied that the design complies with the Health Code requirements and, since there are no specific comments or information available from Mr. Pawlik of the State Health Department, it would not be appropriate to continue the public hearing any further.

The Commission asked if there were any questions or comments from the public. There were none. The public hearing regarding this matter was closed at 8:45 p.m.

Chairman Hillman read the following agenda item:

EPC 105-2004, 2239 Post Road Associates, LLC, 5 Bishop's Gate, proposing to install a hedgerow of plantings, remove fallen trees and debris, and perform related site development activities within a regulated area. The property is located on the northeast side of Bishop's Gate approximately 400'

north of the intersection of Boston Post Road and Bishop's Gate and the site is shown on Tax Assessor's Map #45 as Lot #32-2.

Mr. Keating explained that the application had been withdrawn by the applicant.

There being no further business to be discussed at the public hearing, the public hearing was concluded.

RESUME GENERAL MEETING AT CONCLUSION OF PUBLIC HEARING

The Commission members returned to the general meeting to discuss the status of EPC-100-2004.

Discussion and possible decision regarding EPC-100-2004, David Mangini & Casey Elliot, 40 Goodwives River Road

Commission members discussed the original application and the current application and noted that the new application was much better. After considerable discussion, they asked the staff to draft a resolution for consideration at the January 2005 meeting. The draft Resolution would approve the application subject to a number of conditions and stipulations including the testing of the septic system after it had been in operation for several years to make sure that it was functioning properly. The staff agreed to draft the Resolution so that the Commission can review it prior to taking any action on the application.

There being no further business, the meeting was adjourned at 9:00 P.M.

Respectfully submitted,

David J. Keating
Wetlands Enforcement Officer