

ENVIRONMENTAL PROTECTION COMMISSION
REGULAR MEETING/PUBLIC HEARING
MINUTES
March 5, 2014
7:30 P.M.
Room 206, Town Hall

Vice Chairman Rohr called the meeting to order at 7:30 P.M

Commission Members Present: Rick Rohr, Wynne Shapiro, Alan Armstrong, Eric Joosten, and Keith Kearney.

Staff: Jacobson

Court Reporter: Syat

Channel 79 recorded the meeting

Mr. Rohr called the following agenda item:

EPC-01-2014, John & Jodie Ruddy, 63 Old Kings Highway South, proposing gazebo construction within an upland review area. The site is shown on Assessor's Map #64 as Lot #108.

Mr. Ruddy represented himself. He said the gazebo footings will be dug by hand. Mr. Rohr asked what material would be under the gazebo. Mr. Ruddy said gravel.

Mr. Kearney made a motion to approve the application with a condition that gravel be used under the gazebo. Mr. Armstrong seconded the motion and it passed 5-0.

Mr. Rohr called the next agenda item:

EPC-02-2014, Patricia Browne-Zak, 16 Five Mile River Road, proposing construction of a dock boardwalk within an upland review area. The site is shown on Assessor's Map #66 as Lot #4.

Bill Zack represented the applicant. He said the dock float has been approved by DEEP.

Mr. Rohr asked about the direction of the dock not being straight out to the water. Mr. Zak said they worked with the DEEP on the location.

Mr. Jacobson said the applicant removed fill material based on an administrative approval that the land be left natural, with the exception of the path to the dock.

Mr. Joosten made a motion to approve the application with the condition that a planting plan be submitted for staff approval. Mr. Armstrong seconded the motion and it passed 5-0.

Mr. Rohr called the next agenda item:

EPC-03-2014, James F. Caulfield, Jr., 25 Brush Island Road, proposing house construction within an upland review area. The site is shown on Assessor's Map #56 as Lot #17.

No one was present for this application.

Mr. Rohr called the next agenda item:

EPC-04-2014, Kenneth DeLeo, 43 Arrowhead Way, proposing installation of a portion of a septic system within an upland review area. The site is shown on Assessor's Map #69 as Lot #15.

Doug DiVesta, P.E. represented the applicant. He said they are proposing a new house with a drainage system and septic system. He said all activity is outside the 50 foot upland review area. He said a portion of the septic is within the 150 upland review area from a watercourse. He said the septic system was approved by the Health Department. He said they will need a ZBA variance and a Land Filling and Regrading permit from P&Z.

Mr. Rohr asked about note No. 16 about fill perched in place. Mr. DiVesta said they will test the fill material after it is in place.

Mr. Joosten made a motion to approve the application. Ms. Shapiro seconded the motion and it passed 5-0.

Mr. Rohr called the next agenda item:

EPC-05-2014, Charles & Anne Triano, 31 Tower Drive, proposing an addition within an upland review area. The site is shown on Assessor's Map #1 as Lot #126.

Paul Perrotti, Architect, represented the applicant. He said they are proposing to connect to the sanitary sewer and use the existing septic system for stormwater. He said there is 430 square feet of new building in the upland review area.

Mr. Rohr asked if they considered rotating the addition 90 degrees to avoid the upland review area. Mr. Perrotti said they considered that but it would make the house very long.

Mr. Rohr asked if they dug a test pit near the existing septic system. Mr. Perrotti said no. Mr. Rohr asked if there are any problems with the existing septic. Mr. Perrotti said no.

Mr. Rohr asked if the addition would have a basement. Mr. Perrotti said it would have a crawl space.

Ms. Shapiro asked about the conservation easement on the adjacent property and if it extended onto this property. Mr. Perrotti said he did not think so.

Mr. Joosten made a motion to approve the application with the conditions that the drainage plan be approved by the Town Engineer, and the easement location on the plan be clarified. Mr. Armstrong seconded the motion and it passed 5-0.

Mr. Rohr called the next agenda item:

EPC-06-2014, Town of Darien, Upper Pond, Goodwives River, and 36 Goodwives River Road, proposing pond dredging and dam reconstruction.

John Lundeen, President of the Friends of Gorham's Pond represented the applicant. He said the project was previously approved by the EPC but the project was not completed due to lack of funds. He said the permit expired. He said they now have a State of CT grant and the Town is a partner in the project.

Mr. Rohr requested a letter from the Town giving permission to submit the application.

The Commission determined that a public hearing would be in the public interest. Mr. Joosten made a motion to schedule a hearing for April 2. Mr. Kearney seconded the motion and it passed 5-0.

Mr. Rohr called the next agenda item:

EPC-07-2014, Rick & Meredith Stravato, 301 Middlesex Road, proposing new house construction, and related site grading within an upland review area. The site is shown on Assessor's Map #9 as Lot #70.

Mr. Rohr was recused for this application. Ms. Shapiro acted as Chairman.

Lance Zimmerman, Architect, represented the applicant. He introduced Jay Keillor, P.E. Mr. Zimmerman said they are proposing a replacement house. A portion of the house is within the 50 foot upland review area. He said they are filling within previously disturbed areas, and they have removed soil from a fuel oil spill.

Mr. Keillor said all of the drainage system will be in fill within the upland review area.

The Commission determined that a public hearing would be in the public interest. Mr. Armstrong made a motion to schedule a public hearing for April 2. Ms. Shapiro seconded the motion and it passed 4-0.

Mr. Rohr recalled the following agenda item:

EPC-03-2014, James F. Caulfield, Jr., 25 Brush Island Road, proposing house construction within an upland review area. The site is shown on Assessor's Map #56 as Lot #17.

Tom Nelson, P.E. represented the applicant. He said the proposed plan is slightly different from the plan approved by the EPC. He said they shifted the house six feet farther away from Holly Pond and revised the driveway location and added a rain garden. He said a portion of the proposed pool is within the 100 foot upland review area. He said the large Oak to be removed will be replaced with two trees per the previous approval.

Mr. Rohr asked about tree protection for the large Beech. Mr. Nelson said they will add protection. Mr. Rohr asked for an additional detail of the fence type and a planting plan to be approved by staff.

Mr. Armstrong made a motion to approve the application with a condition to add a tree protection fence, and fence detail and a planting plan to be approved by staff. Ms. Shapiro seconded the motion and it passed 5-0.

Mr. Rohr called the following public hearing item.

EPC-46-2013, Darien Athletic Foundation, 80 High School Lane, proposing conversion of existing natural turf fields to synthetic turf, and enlarge existing detention basin within an upland review area. The site is shown on Assessor's Map #9 as Lot #'s 80 & 81.

The hearing was continued to March 12 at 7:30 in Room 213.

Mr. Rohr was recused for the next application and left the meeting at 8:20 p.m.

Ms. Shapiro called the following public hearing item.

EPC-45-2013, Emily & Michael Lyons, 87 Delafield Island Road, proposing house and septic system construction in a regulated area and upland review area. The site is shown on Assessor's Map #70 as Lot #34.

Mr. Joosten said he watched the DVD of the previous hearing.

Attorney Wilder Gleason represented the applicant. He said Steve Trinkaus, P.E., provided minor changes to the plan after reviewing the comments from Richard Couch, P.E. and Landtech Associates.

Mr. Trinkaus said they moved a soil stockpile, marked the trees to be removed, eliminated one of the bio retention basins, and added PVC grid pervious pavers.

Mr. Gleason introduced Aleksandra Moch, PWS and provided her CV. He said Ms. Moch revised her report to address Tom Ryder's concerns. He said the Commission must make a finding regarding adverse impacts. He said the no build alternative is not feasible since the Lyons have been paying taxes on a building lot for years. He provided comparative house values and sizes in the vicinity of the property.

Mr. Gleason provided a summary of previous EPC permits issued with equal or greater impacts on undeveloped lots. He said the closest precedent is J. Baron land which involved a stream crossing for a septic force main.

Ms. Shapiro asked about a statement in Mr. Corney's letter that the engineers determined the lot was unbuildable. Mr. Trinkaus said the new types of septic systems have a greater effective area but they still need to comply with the minimum leaching system spread.

Attorney Bruce Hill represented the intervenors and neighbors. He said they recognize the applicant's right to a reasonable development. He said the application was not in good shape when it was filed. He said there are three questions and concerns the Commission should have addressed. First is whether there has been sufficient environmental investigation. He said the investigation was done during a drought. Second, he said there are open questions regarding the ledge and whether there should be test pits for the ledge. He said the third item is that the applicant has not met the burden of demonstrating no feasible or prudent alternatives. He said the 1997 plan is not in the record and, if that plan was unacceptable, there is no evidence this new plan is better and, therefore, the best plan. He said the Commission should be careful in considering precedents. He said in the Miceli application there were ten different alternatives.

Juan Paredes, P.E., Landtech said all of the environmental concerns have been addressed. He said the storm water management criteria have been met for an activity in the CAM zone. The applicant has addressed water quality and it is not necessary to detain peak flows.

Mr. Kearney asked if Landtech considered the environmental assessment adequate. Mr. Paredes said Mr. Ryder considered all of the questions adequately addressed.

Aleksandra Moch addressed her comments in the report regarding the potential vernal pool and the time of year of the study. She said the EPC does not regulate wildlife. She said there will not be an impact to the wetland. She said they are preserving the canopy, limiting lawn area and preventing stormwater runoff into the wetland. She said they would use wattles instead of silt fence to prevent creating barriers if there are amphibians using the wetland and they can limit the wetland disturbance to the time of year when the animals are not breeding. She said the test holes done during a dry time would reflect the seasonal high ground water elevation by the mottles in the soil profile.

Mr. Gleason asked Ms. Moch if there will be adverse impacts to the wetland area if it is a vernal pool. Ms. Moch said no, because of the environmental protections to be taken.

Mr. Joosten asked how they can prevent more bedrooms from being added. Mr. Trinkaus said that under the State health code the Health Department can make a determination as to which rooms can be a potential bedroom. Mr. Trinkaus said they can conduct test holes in drier times of the year because the soil mottling indicates the seasonal high water table.

Joanne Corney said the testing was done during a bone dry time of year. She said the wetland is always wet. She said she is skeptical of a 3,500 square foot two bedroom house.

Richard Shriner asked about the Moch report not being done in the spring and that the DEEP letter indicates there has not been a comprehensive investigation.

Terry Laughren asked about allowing a lawn in wetlands.

Ms. Moch said the DEEP letter includes a standard disclosure and does not give exact information because they do not want people to look for the plants or animals. She said they are proposing a very limited lawn. She said the lawn is limited to strips along the driveway.

Mr. Gleason asked Ms. Moch if additional investigation of the vernal pool is necessary. Ms. Moch said the timing is not right but they would use the same measures regardless for the proposal to prevent impacts.

Mr. Trinkaus said they will only blast is necessary and they will use small charges. He said the Commission only needs to review feasible and prudent alternatives if there is a significant adverse impact. He said the wetland crossing is unavoidable. He said the majority of the house is outside the upland review area. He said the septic system area will be maintained as meadow.

Mr. Gleason said the applicant has addressed all of the Landtech comments. He said the Commission would have to find there are significant impacts in order to find feasible and prudent alternatives. He said there are no reputable, professional statements that there will be impacts. He submitted the Cornaccia case in which there was no expert testimony contradicting the applicant's expert and the CT Supreme Court reversed the Commission's denial. He said, in regard to the notice of intervention, that there is no evidence of impact to the natural resources of the State.

Mr. Kearney made a motion to close the public hearing. Mr. Joosten seconded the motion and it passed 4-0

Mr. Sweeney made a motion to adjourn. Mr. Kearney seconded the motion, and it passed 5-0. The meeting adjourned at 9:40 p.m.

Respectfully submitted,

Richard Jacobson
Environmental Protection Officer