

ENVIRONMENTAL PROTECTION COMMISSION
REGULAR MEETING/PUBLIC HEARING

MINUTES
May 7, 2014
7:30 P.M.

Room 206, Town Hall

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

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

Staff: Jacobson

Court Reporter: Syat

Channel 79 recorded the meeting

Ms. Riccardo called the following agenda item:

EPC-06-2014, Town of Darien, Upper Pond, Goodwives River, and 36 Goodwives River Road, proposing pond dredging and dam reconstruction (Public hearing closed April 2).

The Commission discussed the draft decision. Mr. Kearney made a motion to approve the draft as amended. Mr. Joosten seconded the motion and it passed 6-0.

Ms. Riccardo called the next agenda item:

EPC-08-2014, Nicholas & Christa Struk, 1 Dew Lane, proposing house addition within an upland review area. The site is shown on Assessor's Map #1 as Lot #43.

Matt Dougherty, Architect, represented the applicant. He described the proposed addition and said there would be 225 square feet of construction in the upland review area. He said there would be a crawl space with no sump pump.

Mr. Rohr asked if the Maple tree would be removed. Mr. Jacobson said the tree has a hollow base and would be too close to the addition; therefore it would not be protected. Mr. Rohr suggested two replacement trees.

Mr. Jacobson said a planting plan for the wetland restoration should be required.

Mr. Armstrong made a motion to approve the application with the condition of a planting plan and two trees to be planted to mitigate the loss of the maple tree. Mr. Joosten seconded the motion and it passed 6-0.

Ms. Riccardo called the next agenda item:

EPC-09-2014, NWL, LLC, 145 Nearwater Lane, proposing new house construction within a regulated area and upland review area. The site is shown on Assessor's Map # 56 as Lot #24. Attorney Bruce Hill represented the applicant. He said this is a complex property and he assumed the Commission will require a public hearing.

Ms. Riccardo asked about the buried car and possible contamination. Mr. Hill said they have had the property evaluated and here are no contaminants.

The Commission considered the activity significant. Mr. Joosten made a motion to schedule a public hearing for June 4. Mr. Armstrong seconded the motion and it passed 6-0.

Ms. Riccardo called the next agenda item:

EPC-10-2014, Richard & Pamela Shear, 40 Hamilton Lane, & Flora Smith, 42 Hamilton Lane, proposing to maintain existing drainage pipes installed in an upland review. The site is shown on Assessor's Map #10 as Lot #'s 30 & 31.

Attorney Wilder Gleason represented the applicants. He said they are requesting an after the fact permit. He said the pipes were discovered as part of a sale of the Shear property. They had represented no known violations on the property.

Mr. Armstrong said the proposal as described sounds reasonable.

Mr. Rohr asked if they considered a rain garden. Mr. Gleason said that would entail a cost for Mrs. Smith. He said it may not function.

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

Ms. Riccardo called the next agenda item:

EPC-11-2014, Jim & Mary Wise, 7 Andrews Drive, proposing house additions, and filling and grading within an upland review area. The site is shown on Assessor's Map #63 as Lot #73.

Chris Allan, PWS, represented the applicant. He described the addition and the stone terrace to replace the deck. He said they will create a temporary access to the rear of the lot. They will construct a rain garden to collect existing runoff. He said they will install plantings in the rain garden and between the wall and the river.

Ms. Riccardo asked about the easement on the property. Mr. Allan provided a copy of the survey and the easement language. He said the language prohibits structures in the easement.

Ms. Riccardo asked if the rain garden would be allowed in the easement. Mr. Allan said he thought it would create a more natural area that would be in keeping with the easement language.

Mr. Rohr asked about the rain garden location and whether they would be able to fit it in. Mr. Allan said they are comfortable that it can be installed. He said they can provide a cross section.

Mr. Jacobson suggested they remove the Japanese Knotweed near the driveway entrance while the area is disturbed.

Mr. Rohr asked if they can protect the 15 inch maple. Mr. Allan said he thought they could. Mr. Rohr suggested they provide a replacement if it is damaged.

The Commission continued the application to receive more information on the easement and the cross section.

Ms. Riccardo called the next agenda item:

EPC-12-2014, Larry & Susan Lehan, 125 Holmes Avenue, proposing fence construction in an upland review area. The site is shown on Assessor's Map #24 as Lot #7.

Mrs. Lehan represented herself. She said they are proposing to extend the fence 16 feet to gain additional play space.

Mr. Rohr asked about the large Oak tree. Ms. Lehan said they would not be removing the tree.

Ms. Riccardo asked that the Lehans remove all yard debris and not continue to dump over the new fence. She said they should not encroach on the location of wetland flag #4.

Mr. Rohr made a motion to approve the application with the conditions of no future dumping and the fence not to encroach past wetland flag #4. Mr. Joosten seconded the motion and it passed 6-0.

Ms. Riccardo called the next agenda item:

EPC-13-2014, Anthony and Brandi Maniscalco, 53 Stephen Mather Road, proposing a rain garden in an upland review area. The site is shown on Assessor's Map #1 as Lot #57.

Sam Northrup, P.E., represented the applicant. He said they are proposing a rain garden to mitigate rain water on the site. He said they were going to bury galleries under the driveway but they would be too close to the septic system.

Ms. Riccardo asked if they are proposing to move the play set and the trampoline. Ms. Maniscalco said they will move the trampoline.

Mr. Rohr asked if they would protect the 24" Maple tree. Mr. Northrup said they will protect the tree.

Mr. Joosten made a motion to approve the application with the conditions of tree protection, a revised planting plan, and moving the trampoline and play set. Mr. Rohr seconded the motion and it passed 6-0.

Ms. Riccardo called the next agenda item:

EPC-14-2014, Carmen Molinos 16 Stony Brook Road, proposing fence construction in an upland review area. The site is shown on Assessor's Map #18 as Lot #85.

Mark DeAngelis represented the applicant. He said they would like to push the fence back to the property line to discourage dumping on their property and keep neighbor's children out of the wetland. He said it would also make it easier to maintain the rain garden if it were inside the fence. He said they are proposing a split rail fence with netting.

Mr. Rohr asked if they considered keeping the existing fence also. Mr. DeAngelis said the fence is in poor condition and they would prefer to remove it.

The Commission will require a notice of the permit on the land records regarding maintaining the rain garden.

Mr. Joosten made a motion to approve the application. Mr. Armstrong seconded the motion and it passed 6-0.

Ms. Riccardo called the following public hearing item:

Amendment of "Regulated Wetlands and Watercourses" Map, revised to incorporate specific site soil surveys approved by the Environmental Protection Commission. The Town amends its wetland boundary map periodically to reflect new information regarding soils and wetlands, and watercourses collected throughout the year.

Mr. Jacobson said the amendment reflected the 33 surveys with updated soil mapping provided to the Commission since the last revision.

Ms. Riccardo asked for public comment. No one from the public wished to speak.

Ms. Shapiro made a motion to close the public hearing. Mr. Armstrong seconded the motion and it passed 6-0.

Mr. Armstrong made a motion to adopt the map revisions. Mr. Joosten seconded the motion and it passed 6-0.

Ms. Riccardo called the following public hearing 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. (continued from April 2)

Mr. Rohr was recused for this application and he left the meeting at 8:35 p.m.

Ms. Shapiro said she watched the DVD of the April 2 public hearing.

Lance Zimmerman, Architect, represented the applicant. He introduced Jay Keillor, P.E. Mr. Keillor submitted a corrected copy of the storm water maintenance agreement.

Mr. Zimmerman said the proposed house is farther from the wetland than the previous house. He said they have raised the basement floor elevation six inches. He said they have added curbing to the driveway to prevent any runoff to the neighbor to the south. Mr. Zimmerman said they are removing six trees, three of which are within the regulated area or upland review area, and they are proposing to plant three new trees.

Mr. Keillor provided a section view of the driveway showing the curb and the slope toward the drainage system. He said the site was previously disturbed and there is water ponding on the property as a result. He provided additional groundwater monitoring data.

Ms. Riccardo said she is concerned with the location of test hole #5 which is in an important location relative to the basement. Mr. Keillor said that he is confident that the data from hole #5 is a result of a bad test pipe and the data is inconsistent with the pattern of ground water sloping. He said, in his experience, the groundwater would not have a bump in the profile.

Mr. Armstrong said it is consistent in data analysis to throw out outliers.

Mr. Joosten said he agreed that the data from test hole #5 appears to be an anomaly.

Mr. Keillor said he believes they have tested during the worst groundwater conditions and demonstrated that the basement is feasible.

Ms. Riccardo opened the hearing for public comment.

Susan Jacobson, 3 Holly Lane said she still has standing water on her property from the last storm. She said she is concerned about the effect of a basement on her property. Mr. Keillor explained how all of the water from their site is directed to the wetland in the rear of the property that drain to the north, away from the Jacobson property.

Ms. Jacobson asked about the fuel oil spill on the property. Mr. Stravato said they have remediated the oil spill.

Ms. Shapiro asked if it is possible to have a crawl space. Mr. Zimmerman said it is, but there would be no guarantee they would not still need a sump pump. Mr. Keillor said he believes he has shown that the sump will only be needed in times of unusual high groundwater. He said he thinks it would be unfair to require the applicant to raise the house.

Mr. Kearney made a motion to close the public hearing. Mr. Armstrong seconded the motion and it passed 5-0.

The Commission proceeded to deliberate on the application.

Mr. Armstrong said the applicant provided all of the technical work to present a strong case for approval.

Mr. Joosten said he thought the applicant did a lot of work to adjust the plans.

Mr. Kearney said he has enough information to approve the application. He said the professionals provided a plan that minimizes impacts.

Ms. Shapiro said that she feels the neighbor's concerns were addressed and is assured by Mr. Keillor that there will not be any problems.

Ms. Riccardo said she is confident they will adjust the basement elevation if necessary during construction. Ms. Riccardo reviewed the conditions discussed including a maintenance plan, a planting plan, tree replacement, three days notice to staff before the foundation is dug, and an evaluation of the groundwater conditions by the architect and engineer during construction to determine if the basement floor needs to be raised.

Mr. Joosten made a motion to approve the application with the conditions outlined by Ms. Riccardo. Mr. Kearney seconded the motion and it passed 5-0.

P&Z referral, Kennsett II, 48 Wakemore Street, proposed zone change to Designed Community Residential

The Commission discussed the proposed zone change and had no comments for the Planning & Zoning Commission on the change in use of the land. The Commission expects to review the project at the time a wetland application is filed.

Declaratory Ruling, Save the Sound, proposed fish ladder on the Noroton River at I-95 culvert

Mr. Jacobson said the proposed fish ladder is on CT DOT property and is not subject to local wetland jurisdiction. The project would also be permitted as-of-right as a fisheries management activity. The Commission believes the project will benefit to the river ecology.

Proposed Wireless Telecommunications Tower, Ox Ridge Hunt Club, 512 Middlesex Road, comments requested prior to application to State Siting Council

The Commission discussed the proposed tower and did not see any need to comment as a Wetland Commission or Conservation Commission as there are no impacts proposed to natural resources.

Mr. Joosten made a motion to approve the minutes of February 12 as amended. Mr. Armstrong seconded the motion and it passed 4-0. Mr. Kearney abstained.

Mr. Joosten made a motion to approve the minutes of March 5 as amended. Ms. Shapiro seconded the motion and it passed 4-0. Ms. Riccardo abstained.

Mr. Joosten made a motion to approve the minutes of March 19 as amended. Ms. Shapiro seconded the motion and it passed 4-0. Mr. Kearney abstained.

Mr. Kearney made a motion to approve the minutes of April 2 as amended. Mr. Armstrong seconded the motion and it passed 5-0.

Ms. Shapiro made a motion to adjourn. Mr. Armstrong seconded the motion, and it passed 5-0. The meeting adjourned at 9:50 p.m.

Respectfully submitted,

Richard Jacobson
Environmental Protection Officer