

Draft ENVIRONMENTAL PROTECTION COMMISSION
REGULAR MEETING/PUBLIC HEARING
MINUTES
December 4, 2013
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, Wynne Shapiro, Rick Rohr, Eric Joosten, and Keith Kearney.

Staff: Jacobson

Court Reporter: Syat

Channel 79 recorded

Ms. Riccardo called the first agenda item:

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

Mr. Rohr was recused for this application.

Jacek Bigosinski represented the applicant. He introduced Aleksandra Moch, Wetland Scientist

The Commission determined that the application warrants a public hearing since it is a new house and the potential impact to the regulated area. Mr. Joosten made a motion to schedule a public hearing for January 8. Ms. Shapiro seconded the motion and it passed 4-0.

Mr. Bigosinski said they are proposing a new house with a footprint of approximately 2700 square feet. The house encroaches six feet in the upland review area. He said they are also proposing a septic system.

Ms. Moch submitted a letter the DEEP Natural Diversity Data Base.

Ms. Shapiro requested they stake out the house location. Mr. Bigosinski said they would.

Ms. Riccardo said Mr. Jacobson is conflicted out of providing technical review of the application. She suggested the Commission hire an expert at the applicant's expense, as provided for in the regulations. She suggested hiring Land-Tech Consultants. Mr. Joosten made a motion to retain Land-Tech. Ms. Shapiro seconded the motion and it passed 4-0.

Ms. Riccardo called the next agenda 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.

Joe Canas, P.E., Tighe & Bond, represented the applicant.

The Commission determined that a public hearing would be in the public interest. Ms. Riccardo said the Commission will retain Redniss & Mead to review the application.

Mr. Rohr made a motion to schedule a public hearing for January 22, 2014. Ms. Shapiro seconded the motion and it passed 5-0.

Mr. Rohr asked if there will be trees removed along the fence line. He asked for the proposed fence to be overlain with the existing and show whether the boulders line will remain. Mr. Canas said the fence will be replaced in the same location.

Mr. Rohr asked if there was a test pit to determine if the fill material is suitable. Mr. Canas said they will look into an additional test pit.

Mr. Rohr asked about the change in runoff coefficient between the existing and proposed surface. Mr. Canas said they will provide it. Mr. Rohr asked Mr. Canas to look at water quality from the standpoint of temperature of water from the first flush. Mr. Canas said he will address that issue.

Mr. Joosten asked Mr. Canas to describe the Commission's area of concern. Mr. Canas described the regulated area and upland review area.

Mr. Rohr made a motion to retain Redniss & Mead. Mr. Joosten seconded the motion and it passed 5-0.

Ms. Riccardo called the following agenda item:

Flood & Erosion Control Board: discussion of Intervale Road/Devon Road/Rose Lane drainage project memo.

Mr. Rohr made a motion to approve the draft memo as amended. Mr. Kearney seconded the motion and it passed 5-0.

Mr. Joosten made a motion to approve the minutes of October 16. Mr. Armstrong seconded the motion and it passed 5-0. Mr. Sweeney abstained.

Ms. Riccardo called the public hearing to order at 8:00 p.m.

EPC-41-2013, Todd & Katherine Boehly, 212 Talmadge Hill Road, proposing a drainage system, and site work related to the construction of a field house, within an upland review area. The site is shown on Assessor's Map #3 as Lot #81-2.

Todd Ritchie, P.E., represented the applicant. He introduced Howard Kelly, Architect.

Mr. Rohr asked about the silt fence that was installed. He said it was in violation. Mr. Ritchie said he instructed the contractor to install the silt fence after the test pits were dug and the access path was installed.

Mr. Rohr asked if it is in the wetland. Mr. Ritchie said the contractor measured from the wetland flags and it is in the upland review area.

Mr. Ritchie provided a revised plan showing the silt fence location and the tree proposed to be removed. He submitted a rain garden planting plan and a mitigation planting plan.

Ms. Shapiro asked about the type of pool filtration system. Mr. Kelly said he assumes it will be chlorine based. He said they provided for discharging the pool water, if necessary, to the underground detention.

Mr. Rohr said he would like to have a condition insuring the rain garden slope is stabilized to the satisfaction of staff.

Ms. Riccardo said a maintenance plan should be required for the detention system and the rain garden.

Ms. Riccardo opened the hearing to public comment. There were no members of the public who wished to speak.

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

Mr. Edward Sullivan, 853 Hollow Tree Ridge Road, arrived at this time. Mr. Joosten made a motion to re-open the public hearing. Mr. Kearney seconded the motion and it passed 5-0.

Mr. Ritchie briefly described the proposal for Mr. Sullivan's benefit.

Mr. Sullivan asked about the use of the building and the appearance. Mr. Kelly described the field house interior, the proposed siding materials, and the proposed planting. Mr. Sullivan had no further questions.

Ms. Shapiro made a motion to close the application. Mr. Joosten seconded the motion and it passed 6-0.

The Commission proceeded to deliberate on the application and discussed conditions of approval.

Ms. Riccardo summarized the proposed conditions: restore the disturbed area downhill of the proposed rain garden location to the satisfaction of staff, provided a maintenance plan for the drainage system and rain garden, limit construction access to Talmadge Hill Road, maintain the driveway surface as gravel, and install an additional silt fence in the location shown on the plan while also maintaining the existing silt fence.

Mr. Rohr made a motion to approve the application with the conditions as described. Mr. Joosten seconded the motion and it passed 5-0.

Mr. Rohr made a motion to adjourn. Ms. Shapiro seconded the motion, and it passed 6-0. The meeting adjourned at 8:30 p.m.

Respectfully submitted,

Richard Jacobson
Environmental Protection Officer

DRAFT

To: Planning & Zoning Commission

From: The Environmental Protection Commission acting as the Conservation Commission

Date: November 14, 2013

Re: Coastal Site Plan Review #273A, Land Filling & Regrading Application #273-A
Eric Richards/Estate of Beatrice Richards, 121-123 Five Mile River Road

The Environmental Protection Commission, in their role as the Conservation Commission, discussed this referral at their November 6, 2013 meeting. A sub-committee of three members of the Commission took the following actions to familiarize themselves with the project:

- Watched those portions of the DVDs that recorded the P&Z Commission's Public hearing sessions for the 123 FMR application on 10/1/13, 10/8/13, and 10/29/13.
- Visited the site on 10/20/2013 and 10/27/2013. During the 10/20/2013 visit, Mr. Armstrong and Chairman Riccardo. also viewed the site from Rowayton, CT.
- Spoke to Town Historian Marian Castell on 10/24/13 (Chairman Riccardo).
- Reviewed the following drawings and documents that are part of the P&Z Commission's file for the 123 FMR applications:
 - Coastal Site Plan Review – Preliminary Planting Plan, prepared by William Kenny Associates LLC, dated 9/30/2013.
 - Existing Lawn Area -- Prepared by William Kenny Associates LLC, dated 10/22/2013.
 - Coastal Resource Map showing free cut boundary -- Prepared by William Kenny Associates LLC, dated 10/16/2013.
 - Proposed and Existing Lawn Areas -- Prepared by William Kenny Associates LLC, dated 10/22/2013.
 - 123 Five Mile River Road Project #3 – Showing FEMA Zones, Proposed Watercourse Buffer Planting, and Proposed Rain Garden Planting, Prepared by William Kenny Associates LLC, Undated.
 - Proposed Site Plan Sheet C1, with color added to show building setback lines, 100' CAM line, VE Zone Boundary and AE/X Zone Boundary. Prepared by Frangione Engineering, dated 10/8/2013.
 - Waterside Elevation Rendering for Lots 1 and 2, Sheet A-1. Prepared by Kaali-Nagy Architect, LLC, dated 4/13/12.

- Review of CAM Policies and Goals – Proposed Lot Split and Two Single-family Residences 123 Five Mile River Road, Darien, CT, Prepared by Megan B. Raymond of William Kenny Associates LLC, dated 10/8/2013.
- Initial Comments and Concerns of Michael A. Aurelia (Professional Wetland Scientist retained on behalf of the Darien P&Z Commission), dated 10/29/13.
- Review and Comments: 123 Five Mile River Road from Steven Danzer, PhD (Environmental Consultant retained by neighbors), dated 10/29/13.

The sub-committee reported to the Commission as a whole and presented questions and open issues for discussion. This memo summarizes the finding of the EPC on this application.

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1. The EPC agrees with the findings of Mr. Aurelia and Mr. Danzer that the property includes a rocky shorefront, in contrast with Ms. Raymond's conclusion that the property does not contain this resource. The EPC agrees with Mr. Danzer that alternative plans should be provided which are more in keeping with the intent of CT General Statutes Sec. 22a-92(b)(2)(B) which includes the provision that it is State policy to "manage rocky shorefronts so as to insure that development ... does not irreparably reduce the capability of the system to support a healthy intertidal biological community; to provide feeding grounds and refuge for shorebirds and finfish, and to dissipate and absorb storm and wave energies."
 2. All three experts commenting agree that the property includes tidal wetlands. Mr. Aurelia also documented the shellfish concentrations area and intertidal flats adjacent to the project area, and recommended identifying the marine invertebrates that are using the intertidal area around the site. The EPC agrees with Mr. Aurelia that some activity related to removing the existing dock is more likely than not, and that any potential impacts need to be addressed with this application. Mr. Aurelia also expressed his opinion that unless weaknesses in the existing stone seawall are remedied before construction is completed (particularly on Lot 2), access for later repair activities will be by barge, potentially presenting "significant risks to the coastal resources in the intertidal zone." The Commission recommends this issue be addressed prior to any approval of development on the property.
 3. Mr. Aurelia has additional concerns for the construction phasing and the adequacy of sediment and erosion controls, and general notes, to protect the tidal wetlands. Since Mr. Aurelia is reviewing the application on behalf of the Town, the EPC considers this opinion as an impartial comment, and recommends this issue be further addressed by the applicant.
 4. The EPC reached a majority consensus that the property contains an historic feature in the Town and that development will impact a scenic vista and viewpoint if the current plan is implemented. There was unanimous agreement that this issue should be explored further by the Planning & Zoning Commission in the context of the CAM review and existing

legal precedents.

5. The Commission was unanimous in their opinion that the proposed development and extensive rock removal is not consistent with Section 1025.9 of the Planning & Zoning Regulations, in that there has been no attempt to preserve the sensitive land features and natural terrain of the property.
6. The Commission agrees with the Town Historian, and both Mr. Danzer and Mr. Aurelia, that the site merits an archeological assessment prior to construction, and preservation of portions of the structure. The Commission recommends that any approval contain a condition of approval to that effect.
7. The Commission recommends that the extent of trees to be removed be made clearer on the proposed development plans. Mr. Danzer noted 27 of 31 specimen trees to be removed and expressed his opinion that others will be impacted by construction. The Commission also notes that Mr. Danzer is critical of the planting plan and recommends P&Z consider this plan, and possible deficiencies, in more detail.