

ENVIRONMENTAL PROTECTION COMMISSION
REGULAR MEETING
MINUTES
March 3, 2010
7:30 P.M.
Room 206, Town Hall

Commission Members Present: Peter Hillman, Michael Tone, Wynne Shapiro, Pete Kenyon

Staff Present: Jeremy Ginsberg

Court Reporter: Bonnie Syat

Chairman Hillman called the meeting to order at 7:30 P.M. and read the first agenda item:

Old Business:

EPC-37-2009, 19 Holly Lane, Lance E. Zimmerman on behalf of Daniel & Jennifer Anderson, proposing house demolition and new house construction within an upland review area. The site is shown on Assessor's Map #9 as Lot #143. (Public hearing closed February 3, 2010. Decision deadline March 8)

Mr. Hillman noted that both Mr. Kenyon and Ms. Shapiro had watched the DVD of the February EPC meeting on this matter and both were ready to vote on this application. Mr. Hillman started with the question of waiver of stormwater requirements. He noted that all of the experts who testified recommended waiving the drainage requirement in these circumstances. Mr. Hillman then made a motion to grant a waiver of the drainage requirement. That motion was seconded and approved by a vote of 4-0.

Mr. Hillman then noted that Ms. Cameron had raised the question of whether to require a bond for the required plantings. Mr. Hillman explained the EPC's policy on bonds—they are used to secure performance. Mr. Tone said that he was not sure what a bond would be needed for in this case—the plantings are not extensive. Mr. Hillman also mentioned that the owners plan on residing in the new residence.

Mr. Ginsberg noted some typographical corrections needed for some of the dates within the draft resolution. Mr. Tone then made a motion to adopt the resolution with the typographical corrections noted by Mr. Ginsberg. That motion was seconded by Ms. Shapiro and approved by a 4-0 vote.

New Business:

Mr. Hillman called the next agenda item:

EPC-01-2010, 51 Phillips Lane, Karl & Elisabeth Puehringer, proposing filling and retaining wall construction within an upland review area. The site is shown on Assessor's Map #25 as Lot #113-3

Mr. Peter Ratkiewich of Bridgewater Engineering, LLC was present on behalf of the owners of 51 Phillips Lane, and one of the owners was also present. Mr. Ratkiewich explained that they are

proposing the construction of a retaining wall and 336 cubic yards of fill in the rear of the property. Mr. Ratkewich showed the plans, including the existing house and the steep slope in the rear. He explained that the wetlands are in the open space to the south of the property. He presented photographs which show that there is now five feet between the house and the top of the slope. Mr. Hillman asked that the 50 foot regulated area be pointed out on the photos. Mr. Ratkewich then showed the slope and the house in a 2D rendering. Mr. Tone asked about the difference in elevation. Mr. Ratkewich responded that there is 16 feet+/-, and it is a consistent slope.

Mr. Hillman then noted Mr. Rohr's comments. He said that the EPC could recommend to the Building Official that test holes be done. Mr. Ginsberg said that it is unusual for a retaining wall to require a Building Permit, but in this case, apparently one is required. Mr. Hillman said that the Planning and Zoning Commission would be holding a public hearing on this application. Mr. Tone asked for more information regarding slope erosion. Mr. Ratkewich responded that some erosion is occurring now. Mr. Tone asked about any erosion occurring within the EPC-regulated area. He believed that if this project is approved, it will minimize erosion in the future.

Mr. Ratkewich said that small-to-medium sized excavation equipment will be used in this project. They are proposing a mechanical stabilized earth wall. The highest portion will be ten feet high. They need 536 cubic yards of gross fill, and 336 cubic yards of net fill. There will be about 285 square feet of disturbed regulated area. Plantings will mitigate the height of the wall. Shadbush and dogwood will be placed above the wall, along with Boston ivy. At the base of the wall, they propose three seven foot arborvitae.

Mr. Hillman then asked about the oak trees that had been removed in the past few years. Mr. Ratkewich noted that permission was requested from EPC staff to remove them, as they were dead. Mr. Hillman noted that EPC usually uses a 3:1 replacement ratio for trees. Mr. Ratkewich responded that they have two trees on top of the wall, and other trees and shrubs below the wall. They can do additional plantings if required.

Mr. Tone confirmed that there would be very limited excavation work within the 50 foot regulated area. Mr. Ratkewich then submitted a photograph of a similar style wall (in white). He then showed a rendering of the complete project, with a four foot fence atop the new retaining wall. Mr. Hillman then asked about mechanical stabilized earth walls. Mr. Ratkewich responded that they can be constructed any time of year, and these types of walls shift, they do not crack. They will not need a concrete truck to construct it. Mr. Tone asked whether the proposed wall will have weep holes. Mr. Ratkewich said that there will be distributed rain ports. This property has well drained soils with no groundwater. He then submitted the 2/27/2010 letters of support from neighbors.

Mr. Kenyon asked Mr. Ratkewich to describe the blocks, and whether the owner will be the site monitor, as listed in Note 7 of the submitted plans. Mr. Ratkewich said that the contractor will actually be the site monitor. Mr. Hillman confirmed that the owner will have a qualified representative. Mr. Ratkewich said that he would recommend a geotechnical engineer if certain soils are present, as they would need to verify the bearing capacity. Mr. Hillman believed that a recommendation to the Building Official to get the services of a geotechnical engineer as needed. Mr. Tone then asked about the excavated material. Mr. Ratkewich said that it will need to be taken off-site. He then described the excavation process. Mr. Tone confirmed that there would be no storage or materials or stockpiling within the regulated area or the wetlands.

There were no members of the public who were present to comment on the application. Mr. Hillman then made a motion to approve the application with the following conditions:

- 1) All excavated material shall be stored uphill of the proposed retaining wall;
- 2) That a letter be submitted to the Planning and Zoning Commission from the EPC noting their recommendation for replacement trees to be planted to replace the oaks that were cut down. Those oaks were outside of the EPC regulated area.
- 3) That the Building Official consider the hiring of a geotechnical engineer, if he believes that one is needed. He should instruct the applicant to conduct a global stability analysis (GSA) if necessary. The Building Official should also consider requiring test holes once subgrade has been excavated, to determine the groundwater level.
- 4) The contractor perform a Standard Proctor test or a Modified Proctor test and advise EPC Staff of the results.

The motion to approve with conditions was seconded by Mr. Kenyon, and approved by a vote of 4-0.

At about 8:15 P.M., Mr. Hillman called the next agenda item:

EPC-02-2010, 9 Mansfield Place, 10 Brown Street, LLC, proposing house demolition and new house construction within an upland review area. The site is shown on Assessor's Map #10 as Lot #67 & 68

Mr. Lance Zimmerman was present on behalf of Mr. Minichini. He submitted a letter of authorization from the owner. They are proposing a new house, drive, and terrace. Test pits were done, and they are proposing a crawl space within the house. Mr. Hillman noted that this is a "teardown", and it will be considered as an undeveloped lot for stormwater design purposes. Mr. Zimmerman said that McChord Engineering will call EPC staff and perform the necessary stormwater analyses. They will have them completed by March 18th.

Mr. Zimmerman noted that Tom Pietras prepared a planting plan. Mr. Hillman said that Bob Oley of Land-Tech will be hired to review the engineering reports on behalf of the Commission. Mr. Hillman said that due to both possible significant impacts and because of the public interest, and the increase in impervious surface, the EPC will hold a public hearing on the matter. Mr. Ginsberg said that an April 7th public hearing is possible, if all application materials are submitted timely.

Mr. Hillman then called the next agenda item:

EPC-03-2010, 83 Camp Avenue, Wei Wu & Jue Wang, proposing house addition and driveway within an upland review area. The site is shown on Assessor's Map #8 as Lot #77

Mr. Don Federle explained that the application includes a driveway along the eastern side of the property. It will be built on-grade. They also propose three rain gardens and bio-retention basins. New drawings were submitted to the EPC just prior to the meeting. The new information also includes the review of a 50 year storm. Mr. Hillman noted that the EPC just received this information today, and only four EPC members are present tonight.

Mr. Tone noted that some of the driveway will be within the regulated area. Mr. Federle responded that it will be paved and pitched to the bio-retention basins. He did not see a difference in imperviousness between pavement and compacted gravel. Mr. Kenyon asked how many trees

would be removed. Ms. Shapiro noted that the plans show nine trees to be removed. Mr. Federle asked whether the proposed plantings could compensate for the tree loss. Mr. Hillman asked Mr. Federle to discuss the meadow buffer next time, and to bring the engineer with him. He noted that it may not be necessary to bring the landscape architect. Mr. Kenyon asked that the 100-year storm be analyzed. Mr. Tone asked whether there will be any discharge to the regulated area. Mr. Kenyon asked whether the existing house has a basement.

Mr. Hillman mentioned that this is an old schoolhouse. Mr. Federle said that prior owners had received a permit from EPC for a porch, and that porch will be removed as part of this proposal. Ms. Wang, the owner, explained that this is a historic house, and they would like to preserve it. Ms. Shapiro noted that the plans show that fill is needed off the edge of the driveway. EPC members agreed that a public hearing was not needed, but the applicant should return on April 7th to provide additional information.

At about 8:35 P.M., Mr. Hillman called the next agenda item:

EPC-04-2010, 19 Brush Island Road, James P. & Elizabeth D. Degnan, proposing house demolition and site work related to new house construction within 100 feet of Holly Pond

Mr. Tom Nelson of McChord Engineering was present to discuss the application. He explained that the tidal wetlands were flagged by Otto Theall. There is now a single-family residence on the property, which is 33 feet from tidal wetlands and 42 feet from Holly Pond. There is now a shared driveway through the property. Mr. Hillman asked that Mr. Nelson explain the stormwater management. Mr. Nelson then showed the proposed drainage system, with water directed to a proposed rain garden. Mr. Hillman asked whether the proposed rain garden is sufficient for cleansing. He did not see the need for a public hearing on this matter, since the new residence will be pulled further away from Holly Pond. He only needs comfort with the application property addressing stormwater quality and quantity. Mr. Nelson said that there is no existing detention. He added that the proposed rain garden size is adequate.

Ms. Kate Throckmorton of ELS showed the details of the rain garden, which is proposed for the existing lawn area. The amount of impervious area is up a little, and the parking area for guests will be pervious pavers. Ms. Shapiro then asked about the location of the rain garden. Mr. Ginsberg confirmed that this application will need to go before the Planning and Zoning Commission for a public hearing on Coastal Site Plan Review, Flood Damage Prevention Application, and possibly a Land Filling & Regrading permit as well.

Mr. Tone noted that the septic system is within the regulated area. Mr. Nelson mentioned that the regulated area for a septic system is 200 feet from Holly Pond. They will not need any fill for the septic system. Mr. Kenyon asked whether the Darien Health Department has approved the new septic system. Mr. Nelson responded that his working with Barry Bogle of the Health Department, and they need to change one invert. Mr. Kenyon then asked about tree removal. Ms. Throckmorton said that no significant trees will be removed. Two large oaks will be saved. Ornamentals around the house will be removed and some hemlocks removed as well.

Mr. Kenyon asked whether the new house will have a basement. Mr. Nelson said that the new house will have a basement with a sump pump. Mr. Ginsberg explained that the applicant has addressed both stormwater quality and quantity, and due to its unique location directly on Holly Pond, detention is not a large issue, and here, stormwater quality is the more important issue. Mr.

Hillman then made a motion to waive the stormwater requirements given this property's unique circumstances. That motion was seconded and approved by a vote of 4-0. Mr. Kenyon then made a motion to approve the application. That motion was seconded by Mr. Tone, and approved by a 4-0 vote.

Mr. Hillman called the next agenda item:

Request for permit time extension, EPC-13-2005, 25 Brookside Road, Everett C. Morrell.

Mr. Hillman explained that the subject property is on the Goodwives River. He reminded EPC members that a proposal for a modular house was denied by EPC, but the original approval was still in effect. Mr. Jacobson had asked Town Counsel questions regarding the appropriate standard for review of an extension of time, and we are still waiting for a full response. Mr. Hillman suggested that staff get information to EPC for the April 7th packets, including getting additional information from Mr. Morrell.

Other Business:

Minutes of previous meeting: February 2, 2010

Mr. Hillman noted that since only two EPC members who were present on February 2 were present this evening, it would be appropriate to delay action on this item.

Proposed Amendments to the Darien Zoning Regulations (COZR #1-2010) relative to Flood Damage Prevention. P&Z hearing postponed to March 23.

Mr. Hillman mentioned that Mr. Flaherty and Ms. Cameron had submitted comments to the Planning & Zoning Commission on the proposed regulation amendments. Mr. Rohr had submitted comments to the Commission regarding 16 Cross Road. He thanked them all for their work.

Discussion of checklist for Inland Wetland Applications

Mr. Hillman then thanked Mr. Tone for his thorough review of the draft checklist. He asked that this item be put on the April 7th agenda for discussion by the full Commission. Mr. Tone noted that if other EPC members had comments, he can reflect those in a revised redlined version. Mr. Kenyon had some comments, which were given to Mr. Tone. Mr. Tone suggested making the checklist a "living document", which will help applicants, and should be coordinated with the EPC application and any revised inland wetland regulations.

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

Respectfully submitted,

Jeremy B. Ginsberg
Planning & Zoning Director