

ENVIRONMENTAL PROTECTION COMMISSION
SPECIAL MEETING/REGULAR MEETING/PUBLIC HEARING
MINUTES

December 5, 2007

7:00 P.M.
Room 206 Town Hall

Chairman Hillman called the meeting to order at 7:05 P.M. Commission Members Present: Peter Hillman, Susan Cameron, Craig Flaherty, Ellen Kirby, Alan Armstrong, and Pete Kenyon.

Staff Present: Richard Jacobson

Court Reporter: Bonnie Syat

Mr. Hillman read the first agenda item.

EPC-72-2007, David and Lucy Ball, 149 Brookside Road, proposing an addition to an existing residence in the upland review area.

Greg Liberman, Stearns and Wheler represented the applicant. He said they are submitting the additional information requested including a drainage report and modified plan. He said the test pit data shows groundwater at 96". There will be no net increase in runoff and the infiltrators are sized accordingly.

Mr. Flaherty asked about the groundwater being down so deep not far from the wetland. Mr. Liberman said he thought it was a remnant wetland and mostly surface drainage.

The Commission continued the application to review the new material.

Mr. Hillman read the next agenda item.

EPC #50-2007, PL Partnership, LLC, 3 Purdy Lane, proposing to subdivide the existing 2.5+/- acre property and construct four residential lots and two open space lots within the upland review area adjacent to Holly Pond.

Mr. Hillman said he was impressed by the neighbor's presentations. He said the EPC is just the first step in the regulatory process. He said most of the concerns are outside the EPC jurisdiction. Most of the neighbors' concerns are outside the EPC's jurisdiction. He said that impacts to Holly Pond are taken seriously by the Commission. He was satisfied by the testimony of the Commission's experts who gave their opinions that would be no impacts to Holly Pond. He said the erosion & sediment controls are extremely important. The Kenny plans will provide an enhancement to the property. He said there is credible evidence of filling and the stone wall being modified. He said the sea wall should be evaluated and shored up before the work begins. He favors approval with many conditions. People moving in must know they are moving into a floodplain. The biofiltration system will produce better quality of runoff into Holly pond than currently exists.

Mr. Flaherty said he is on the fence about the application. He said the expert testimony from the applicant's and Commission's experts that there would be no impact was persuasive. He said he is

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still worried about E&S controls during construction and major storms. He said he is satisfied with the floodplain management and water quality aspects of the plan. From a purely stormwater point of view it will be a gain for Holly Pond. He said the resolution should include phasing. The wall should be repaired and the biofiltration swale be completed and stabilized first. The underground infiltration and basin will improve runoff. The project will require clear management and independent site monitoring. A maintenance agreement should be in place for the stormwater system. He said the wetland mitigation will help biodiversity and is concerned about the size of the gazebo. He said the gazebo may be an issue for P&Z. He said he is leaning toward the conclusion that there will be no significant adverse impact on the watercourse.

Mr. Hillman said he would prefer not to see the gazebo on the open space.

Mr. Armstrong said the lines of demarcation between the reviewing groups is challenging. He said there were educational and productive presentations by both the neighbors and the applicant. He agrees that, with strict stipulations, the project meets their requirements as a Wetland Commission. The neighbors raised issues outside of the Commission's jurisdiction. He said the project meets the narrow brief of the Commission's purview.

Mr. Hillman said the Commission may not give much weight to the DEP letter submitted by Mrs. North but there are serious issues that will be raised under the C.A.M. review. He said the SWRPA letter does not have much weight. Mr. Flaherty said SWRPA is has a more regional perspective.

Mr. Armstrong said he does not see the gazebo as much of an imposition on the open space.

Ms. Cameron said she agreed with the previous comments except she disagrees that the gazebo is only a P&Z issue. She said there is a potential for garbage to go into Holly Pond and she is concerned about other disturbance to the pond from human activity. She said the planting plan is only along the sea wall and does not consider the major trees removed within the 100 foot upland review area. They are proposing to replace the trees with smaller Amelanchier and there should be larger trees planted. She said any illegal fill is minimal compared with the proposal.

Mr. Kenyon said he agrees with the prior comments including Ms. Cameron's comments regarding the gazebo's impact on Holly Pond. He said there is an alternative to a gazebo such as benches and additional plantings. He said the E&S controls should be reinforced. Seeding the disturbed areas is not immediate enough. Mr. Flaherty suggested that they consider requiring erosion control blankets or hydroseed with a flocculent. Mr. Kenyon said he agrees that the planting plan should include more trees and he suggested a two for one replacement.

Ms. Kirby said she is troubled by the project on many levels not having to with the Commission's purview. She said Mr. Kenny's plan will be an improvement, and she agreed there should be no building in the open space. She said she does not believe that erosion can be controlled on this site. Mr. Hillman asked if she had some comfort level with Mr. Flaherty's suggestions. She said it gave her some but she is not convinced the soil will be contained on the site.

The Commission asked staff to draft a resolution of approval addressing the items of concern, eliminating the gazebo, and planting more trees.

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Mr. Hillman read the next agenda item.

EPC-53-2007, Wee Burn Country Club, 410 Hollow Tree Ridge Road, proposing golf course improvements and mitigation measures to address a wetland violation.

Mr. Hillman said the application came a long way during the process. He said the proof will be in the implementation. He said the tree removal was an egregious violation and not minimal. He said the neighbors felt a lack of cooperation and he recommended the club have a community relations committee. He said the Commission cannot compel the club to adopt anti-flooding measure. He suggested the club think about things the entire town could benefit from.

Mr. Hillman said he is in favor of the berm and restoring the area of the old tee box. He said he is satisfied the berm will not divert water based on the Mr. Hammons testimony on behalf of the Commission and Mr. Ryder's testimony. He said with the addition of the grass pavers and the additional meadow planting, that it is a good mitigation plan. He said he is in favor of the plantings on the island. He proposed an independent site monitor and a performance bond.

Ms. Cameron said she does not think there is a point to the berm and it will not do anything.

Mr. Flaherty said there is a need for consistency. The Commission has been asking other applicants to provided shallow depressions and it would be consistent to ask this applicant to do the same.

Ms. Cameron said that other applicants were usually storing roof water. She said she is not in favor of the island work.

Mr. Armstrong said the mitigation for the violation and the flooding should be considered separately. The mitigation should be done as soon as possible. He said the berm should be approved since the experts are in favor or indifferent and the applicant and neighbor are in agreement. He said is in favor of the island plantings since the expert testimony is that it will improve the habitat. The expert testimony carries the most weight. He said the flooding is due to more rain and is affecting everywhere. The flooding issue should be dealt with separately.

Ms. Kirby said she agrees that since the applicant is requesting the berm and the experts do not believe there will be an adverse impact it should be approved. She said she is also in favor of the island planting.

Mr. Flaherty said he has no opinion on the island. He said the mitigation plan is more than adequate. There will be more natural landscape than golf course. He said he is in favor of the berm and agrees with Mr. Armstrong that there is no reason to deny it. He said he takes exception to the idea that the recent flooding is related to the violation. He said the storm events make it look as if there is more water coming off the golf course, but the only real culprit is heavy rain.

Mr. Flaherty suggested a condition that soil surveys be required before any future work and that the Environmental Management Plan should include the goal of eventually flagging the whole course. He said it a positive step that the club expressed a willingness to work with the town and the Flood and Erosion Control Board.

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The Commission discussed the recommendations made by Mr. Couch. Mr. Hillman said he does not favor elevating the cart path because it would act as a berm. Mr. Flaherty said an elevated path could create a wet meadow and deprive the adjacent wetland of water. He said it would have needed to be considered from the beginning and the impacts would need to be analyzed.

Mr. Kenyon said he is ambivalent about the applicant's berm. He said he was inclined to agree that some storage is better than none. The other mitigation being offered will provide enhancements. He said he was disappointed with the club's attitude toward helping other neighbors with flooding issues.

Ms. Cameron said that flood control measures may have an impact on wetlands. Mr. Flaherty said the violation requires putting things back or providing mitigating for the changes made.

The Commission requested staff prepare a draft approval with conditions including a site monitor and performance bond. It was the consensus that the berm be approved but that the island not be touched until a maintenance plan is approved. The sump pits are to be filled in and restored.

Mr. Hillman read the next agenda item.

EPC-39-2007, Wee Burn Country Club, 410 Hollow Tree Ridge Road, proposing water and sewer line extension within an upland review area.

The Commission deferred action until the next meeting.

Mr. Hillman read the next agenda item.

EPC-80-2006, Grimes, 16 Park Lane, requesting approval of planting/stabilization plan as required by permit conditions.

The Commission reviewed the proposed planting plan prepared by Richard Jones. Ms. Cameron made a motion to approve the plan. Mr. Armstrong seconded the motion and it passed unanimously.

Darien Land Trust, Notification of Phragmites removal, and other conservation activities and wildlife management, on their properties and adjacent properties at 12, 22, and 26 Contentment Island Road, 36 and 37 Tokeneke Trail, 17 Arrowhead Way, St. Birgittas Convent, Runkenage Road, and 73 and 75 Nearwater Lane.

The Commission discussed the materials prepared by All Habitat Services, LLC. Mr. Flaherty made a motion to determine the activities to be non-regulated conservation of vegetation and wildlife. Mr. Kenyon seconded the motion and it passed unanimously.

David and Marta Elders, 142 Five Mile River Road, Requesting permission for Phragmites removal and other conservation activities and wildlife management within a conservation easement.

Mr. Elders explained that he proposed to remove Phragmites with hand tools. They are not proposing using herbicides. Mr. Hillman made a motion to determine the activities to be non-

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regulated conservation of vegetation and wildlife. Ms. Cameron seconded the motion and it passed unanimously.

EPC-73-2007, Estate of James L. Tyson, 7 Buttonwood Lane, proposing to amend the Regulated Wetlands and Watercourses Map.

Laura Ingram, Realtor, represented the applicant.

An amendment application requires a public hearing under the regulations. The Commission scheduled the hearing for February 6.

EPC-74-2007, Richard and Carolyn Brook, 27 Lake Drive, Proposing an addition to an existing residence within the upland review area.

Mrs. Brook represented herself. She said they are requesting a 12' x 20' addition. Half of the addition is within the 50 foot upland review area. She said the original builder was granted a house location 40 feet from the pond. They will not be closer than 40 feet.

Mr. Kenyon made a motion to approve the application. Mr. Flaherty seconded it and it passed unanimously.

EPC-75-2007, Michelle M. and John W. van der Kieft, 75 Hanson Road, Proposing fence construction in a regulated area.

Mr. van der Kieft represented himself. He said they are replacing a fence removed when Wee Burn constructed the tee boxes. He said they are dividing a piece of property with Wee Burn and he would like to replaced the fence require for the pool.

Mr. Hillman asked if all the work would be done by hand. Mr. van der Kieft said yes.

Mr. Hillman made a motion to approve the application. Ms. Cameron seconded the motion and it passed unanimously.

EPC-76-2007, Keith C. and Heidi M. Mitchell, 6 Hickory Lane, Proposing additions to an existing residence within the upland review area

Attorney Wilder Gleason represented the applicant. He said there is a stream under the residence in two 24" pipes. He said they are requesting to build part of the new garage over the existing driveway and expand the existing deck. The basement under the garage will have an internal sump. They are also proposing a flood protection system and stabilization of the stream with large stones and wetland and upland plantings.

Mr. Flaherty asked if they would stabilize the streambed as well as the sides. Mr. Gleason said just the sides.

Ms. Cameron asked if they would be willing to use grass pavers for a portion of the driveway. Mr. Gleason said they would for the truck parking space.

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Mr. Flaherty said the grading for the rain garden seems to encroach on the Town right of way. He said a plan change could be stipulated as a condition.

Mr. Hillman made a motion to approve the application with the above stipulation. Mr. Flaherty seconded the motion and it passed unanimously.

Mr. Hillman read the public hearing item.

EPC-63-2007, Robert Dickson, Jr. 50 Deepwood Road, proposing a pool within the upland review area.

Jeff McDougal, Seymour Associates, represented the applicant. He said they have made improvements in the plan since they first started the process.

Mr. Hillman asked him how close the pool would be to the wetland at the nearest point. Mr. McDougal said 25 feet on the east side and about the same on the west side. He said it would be 20 feet to the edge of the spa on the west side.

Mr. Hillman asked about the area of ground disturbance. Robert Frangione, P.E. said it would be 735 square feet for the pool and 440 square feet for the patio.

Ms. Cameron asked about the proposed pressure valves. Mr. Frangione said they balance the ground water to keep the pool from floating when the pool is empty.

Mr. Hillman asked Mr. Frangione to explain the pool chemistry. Mr. Frangione explained the proposed filter system. He said the chlorine level will be the same as drinking water. He said the DEP does not consider the discharge of pool water over grass a direct discharge because chlorine breaks down quickly.

Ms. Cameron asked if this was considered a salt water pool. Bill Meredith, Shoreline Pools, said it is not a salt water pool. He said the system will greatly reduce the amount of chlorine brought onto the property.

Ms. Cameron asked if it would be possible to move the entire pool to 25 feet away from the wetland. Mr. McDougal said it would be possible to move the spa.

Mr. Hillman asked about the removal of subsurface earth and the displacement of ground water. Mr. Frangione said there will be a displacement of approximately 125 cubic feet. They are proposing a curtain drain on the downhill side to take runoff.

Ms. Kirby asked about the amount of fill to be placed in the pool area. Mr. Frangione said about 2 feet. Ms. Kirby asked if the amount of water caught in the pool would be the same as the amount displaced. Mr. Flaherty said the quantity of the surface water runoff from the pool area may be negative but there will be some ground water recharge prevented.

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Ms. Cameron asked how close the shed would be to the wetland after it is removed from the wetland. Mr. McDougal said 14 feet on the westerly side and 35 feet on the easterly side.

Matt Popp, Environmental Land Solutions, said he was retained to design the mitigation measures and wetland enhancements. He said they were proposing two enhancement areas of 600 and three hundred square feet and a 2100 square foot rain garden to take the driveway runoff.

Mr. Hillman asked Mr. Popp if, in his opinion, there would be an adverse impact on the wetland. Mr. Popp said that the overall mitigation greatly offsets any potential impacts.

Mr. Flaherty asked if there would be underground conduits between the pool and the pool house and could the pool equipment be moved closer to the house. Mr. Frangione said the best practice is to have the pool equipment below the water level. Mr. Flaherty said he would like to see a plan with all of the trenching for utilities shown.

Ms. Cameron said she would like to see a buffer maintained between the lawn and the watercourses.

Mr. Kenyon asked if there would be blasting required to put the pool in. Mr. Frangione said no. They do not anticipate ledge but if removal were necessary than chipping would be more appropriate.

Mr. Flaherty asked about the limit of disturbance to the wetland. Mr. Frangione said 15 feet.

Ms. Cameron asked about the machine access. Mr. Frangione said 8-9 feet.

The Commission continued the public hearing to December 17 to allow the applicant to provide additional information.

Ms. Cameron made a motion to adjourn. Mr. Flaherty seconded the motion and it passed unanimously. The meeting was adjourned at 10:25 p.m.

Respectfully submitted,

Richard B. Jacobson
Environmental Protection Officer