

ENVIRONMENTAL PROTECTION COMMISSION
MINUTES
GENERAL MEETING
JUNE 2, 2004

The General Meeting was called to order at 7:30 p.m. in Room 119 of the Darien Town Hall.

Commission Members Present: Reese Hutchison, Susan Cameron, Robert Kenyon, Ellen Kirby and Nina Miller

Commission Staff Present: Nancy Sarner

Old Business:

The following item was postponed at the request of the applicant:
EPC-31-2004, Rafael Aparicio, 16 Arrowhead Way, proposing addition, flagstone terrace, and perform related site development activities within a regulated area. The property is located on the west side of Arrowhead Way approximately 430 feet south of the intersection of Arrowhead Way and East Trail, shown on the Assessor's Map #64 as Lot #25.

New Business:

Acting Chair Reese Hutchison read the following agenda item:

EPC-51-2004, Elizabeth Stanley-Brown & Peter G. Horan, 7 Fresh Meadows Lane, proposing the construction of a pool with surrounding patio, the removal and reconstruction stone-retaining wall, tree removal, installation of wetland plantings, and perform related site development activities within a regulated area. The property is located on the east side of Fresh Meadows Lane approximately 430 feet north of the intersection of Middlesex Road and Fresh Meadows Lane, shown on Assessor's Map #25 as Lot #92-3.

Acting Chair Reese Hutchison asked the Commission if they found the application to be complete. Ms. Miller replied that she would like information regarding the type of materials to be used. She noted that the report said that the materials were "to be determined." Mr. Horan said that the patio would be constructed of flagstone set in concrete. Ms. Miller asked Mr. Horan where the pool fence would be located. Mr. Horan replied that the fence would be installed around the entire backyard and run along the property line shared with the Voges's.

Ms. Cameron opinioned that the application should be scheduled for a public hearing and explained that nearby protected conservation areas had been established under the original subdivision approval for Fresh Meadow Lane. Mr. Hutchison agreed and stated that it is typical for the Commission to schedule hearings for applications that pose the potential for significant impact. Ms. Cameron said that it would be helpful if the applicant submitted information regarding the fence location, installation and materials to be used. Ms. Kirby recommended that the trees to be removed be marked in the field. Ms. Miller agreed. Mr. Hutchison recommended that the owners provide information regarding alternatives. Mr. Horan said that the Voges's requested that the pool be placed as far north as possible, although they did not object to the

proposal. Mr. Hutchison explained that other alternatives, in addition to different pool location, included proposing smaller pool and deck areas. Mr. Kenyon advocated the consideration of alternate pool locations, such as the front side yard outside wetland setback areas.

Mr. Hutchison explained to Mr. Horan that the Commissioners' discussion should help him prepare for the public hearing, and recommended that the review of alternate designs include sketches and explanations why each alternative was or was not chosen.

Mr. Horan asked the Commission if he should interpret their comments to indicate that the pool has been proposed in an inappropriate location. Ms. Miller replied that under EPC standards, the subject property is highly regulated.

Mr. Kenyon requested information regarding remediation for the wetlands, which he noted were described as being in poor condition by the report submitted with the application. Mr. Horan replied that he interpreted the comment that the wetlands were in poor condition due to the presence of invasive species. Ms. Cameron agreed that there are many invasive species within the area.

Mr. Hutchison asked Mr. Horan if the wetland barrier was created when the lot was created. Mr. Horan replied that he believed that the subdivision builder, Sean Shay, stepped the retaining walls for safety and that the outer wall was required as part of the subdivision approval. Mr. Hutchison advised Mr. Horan that additional subdivision approval amendments might be required from the Planning and Zoning Commission. Mr. Horan explained that additional drainage would be installed as a compromise for the proposed encroachment. Ms. Cameron referred to the site's history and noted that the approval of the subject lot, which is constricted by regulated wetlands and setbacks, was a compromise made by the Town under the original subdivision approval and that further compromise may not be appropriate. Mr. Hutchison agreed that the application appears to be aggressive. Mr. Horan stated that he received approval to construct the garage within the setback area and did not see a difference between the two applications. Mr. Kenyon said that one difference was the consideration of hardship versus luxury.

Ms. Cameron advised that the Commission wait for the public hearing to continue its discussion.

It was the consensus of the Commission that a public hearing be scheduled for Wetland Permit Application #EPC-51-2004 be scheduled for the July 7, 2004 public hearing.

Acting Chair Reese Hutchison read the following agenda item:

EPC-34-2004, Sandee Kirchhoff, 5 Seagate Road, proposing the removal of road debris/sediment from a pond, and perform related site development activities within a regulated area. The property is located on the west side of Seagate Road approximately 90 feet south of the intersection of Seagate Road and Boston Post Road, shown on Assessor's Map #53 as Lot #57.

Kurt Depson, Landscape Architect and Contractor, was joined by Sandee Kirchhoff, property owner, for the presentation of the application to the Commission.

Mr. Depson opined that the application was straight forward, and that they would like a semi-annual maintenance approval because the pond serves as a buffer to Long Island Sound and is

impacted by sediments from Boston Post Road. He suggested that a maintenance agreement could be written into the deed and would contain guidelines, including notifying the Town of any maintenance dredging activity. Ms. Cameron questioned the type of agreement that would be filed with the deed, noting that a maintenance agreement would be different than a Conservation Easement. Mr. Hutchison stated that the Commission could consider, as part of an approval, including allowance for future Commission staff review with the owner for further maintenance dredging activity.

Ms. Kirchhoff said that the pond becomes periodically blocked. She explained that the slate has been in the pond for quite some time and is part of a weir on the inlet side of the pond. Ms. Cameron asked Ms. Kirchhoff how often the dredging of the pond would be needed. Ms. Kirchhoff replied that she has lived at the property for approximately fifteen months and was been told by neighbors that the pond was created more than ten years ago but does not have evidence to substantiate this. Ms. Cameron explained that she would like to know the anticipated time frame for the requested pond-dredging maintenance schedule. Mr. Hutchison asked if the work would be required every ten years, based on the age of the pond. Ms. Cameron said that the timing of the periodic dredging is very vague.

Mr. Kenyon asked if Ms. Kirchhoff had considered closing the pond. Ms. Kirchhoff replied that she could but likes the pond and feels that it could be more attractive, and, therefore, would prefer not closing it off from the stream. Ms. Cameron stated that the pond has the beneficial function of serving as a sediment basin. Ms. Kirchhoff reported that her neighbors appreciate the ponds along the waterway because they help keep sediments out of Holly Pond.

Ms. Miller inquired to the type of equipment to be used. Mr. Depson replied that the work would be done with a backhoe. Ms. Miller asked if the edge would be disturbed. Mr. Depson replied that the majority of the pond edge would remain the same, and that the work area would be limited to the open area of water. He said that the dredged materials would be dried out near the driveway and then removed offsite, and that no mitigation plantings have been proposed. Ms. Miller opined that plantings would not be needed since the application posed minimal disturbance.

Ms. Cameron asked if the work proposed any disturbance to the root structure of the trees. Mr. Depson replied that some disturbance might occur to roots near the pond edge. Ms. Cameron noted that the roots near the masonry wall would probably not be impacted. In response to a question, Mr. Depson said that any wildlife might be temporarily displaced to adjacent areas in the watercourse, but believed that there is only a little amount of wildlife present, if any, since the pond is currently only 6" deep. Ms. Cameron said that she did not see any water in the pond during her site visit.

Upon further discussion of the materials and plans presented, the following motion was made: That the Commission approve Wetland Permit Application #EPC-34-2004. The work shall conform to the plans approved, entitled "Pond Dredging Plan, Kirchhoff Residence, 5 Seagate Road, Darien, CT 06820" by Exteriors Inc., dated 4-12-2004, last revised 5-12-2004, including the Sedimentation and Erosion Control Notes and Specific Construction Sequence included on the plan. The motion was made by Ms. Miller, seconded by Mr. Hutchison and unanimously approved.

The Commission advised the applicant that she could return in July or August with a maintenance schedule for the Commission's consideration.

Acting Chair Reese Hutchison read the following agenda item:

EPC-45-2004, Mr. & Mrs. Thomas Flanagan, Stony Brook Road, proposing the installation of fieldstone columns, repair of existing retaining walls, removal of invasive species to be replaced with native, construction of boulder stops and stone walkway, and perform related site development activities within a regulated area. The property is located on the west of Stony Brook Road, approximately 1,300 feet south from the intersection of Leroy Avenue and Stony Brook Road, shown on Assessor's Map #19 as Lot #26.

Glenn Ticehurst, Landscape Architect, and Seth Ticehurst, Landscape Architect, presented the application on behalf of the Flanagans.

Mr. Glenn Ticehurst reviewed the proposed work for the front portion of the property includes the enhancement planting within wetland corridor, foundation plantings, installation of 4' by 2' by 2' stone columns, and the repair by hand of the stonewall along the driveway. He said that the plan incorporated the use of native plantings as well as some ornamental varieties, including lots of ferns, ornamental grasses, and evergreens. He noted that a planting list had been provided with the application. He said that the work in the front of the property would enhance the site entrance. In the back of the property, he explained, work included the installation of dry laid boulder steps and fieldstone walkway, and plantings, including River Birch, Gray Dogwood, Red Osier Dogwood, and Clethera. He said that the proposed plantings should provide a richer environment and visual improvement. He said that he has had luck with the Double-File Viburnum being deer resistant, and recommends using hot pepper spray as a deer deterrent to protect plantings. He continued that the application proposes the installation of ground-mounted lights to illuminate the columns and walkways, and that the path lights would be hood and recessed to wash over the ground. He said that the existing rubble wall in the backyard would be restacked. Ms. Miller asked if the backyard improvements included installation of benches or gazebos within the regulated area. Mr. Glenn Ticehurst replied that those structures have not been proposed. He added that, to minimize disturbance, the flagstone walkways would be laid by hand without excavation or concrete, and no trees would be removed.

Ms. Cameron stated that she thought that the planting plan was very good, and that the photographic display was very helpful.

Mr. Glenn Ticehurst said that the River Birch is good for the semi-shade conditions in the backyard, and that the columns would be installed outside the wetlands but would be within the setback area.

Ms. Miller inquired to the area around the steps proposed within the backyard. Mr. Glenn Ticehurst replied that the ground conditions would be left. He explained that it is a floodplain area so would flood and therefore any new materials would wash away and not last. He added that no mulch is proposed for the same reasons.

Mr. Hutchison asked when the work would be conducted. Mr. Glenn Ticehurst replied that the work would begin closer to Labor Day but would be quickly completed.

Upon further discussion of the materials and plans presented, the following motion was made: That the Commission approve Wetland Permit Application #EPC-45-2004 as submitted. The work shall conform to the plans approved, entitled "Wetland Enhancement Plan for Mr. & Mrs. Thomas Flanagan, 39 Stony Brook Road, Darien, CT" by Armand Benedek & Glenn Ticehurst, Ltd., dated 5/4/04, revised 5/11/04. The motion was made by Ms. Cameron, seconded by Ms. Miller, and unanimously approved.

Acting Chair Reese Hutchison read the following agenda item:

EPC-50-2004, Janice A. Mahaney, 26 Shipway Road, proposing the construction of a single-family residence, installation of a driveway, and perform related site development activities within a regulated area. The property is located on the north side of Shipway Road approximately 260 feet east of the intersection of Shipway Road and Plymouth Road, shown on Assessor's Map #57 as Lot #43.

Attorney Joseph Rucci presented the application on behalf of Ms. Mahaney. He explained that the application proposed the construction of a new home in the location of a previously existing single-family residence that had been demolished by the previous owner. He said that the construction of a residence had been approved under Wetland Permit #EPC-52-2001, and reviewed the 2001 approved plan. He reviewed the following changes made to the current application from the 2001 approval: no pool is proposed; the driveway area near the residence would be located further from the wetlands; the residence would be located further from the mean high water line; the current proposed residence is smaller than the 2001 approval by ± 500 square feet; and, the septic system would be abandoned and the property would be connected to town sewer. Atty. Rucci said that the northern part of the property is non-buildable because of wetlands, and submitted a letter signed by neighbors, except for the Fisks who were traveling, approving the plan. Atty. Rucci explained that the 2001 permit approval was not transferred to the Mahaneys because of some difficulties.

Donald Ferlow, Wetland Scientist and Landscape Architect, explained that he reviewed the property in depth during the 2001 application review. He said that the construction area is now lawn and that sections of the old foundation had been buried. He reviewed the locations of freshwater and tidal wetlands and associated setback areas. He explained that that the existing driveway is located within the 50' setback area and would remain, and that the 2 1/2" sewer line would be placed beneath the driveway.

In response to questions from the Commission members and Atty. Rucci, Ms. Sarner explained that the paving of the driveway, which was to remain gravel pursuant to the 2001 approval, constituted a wetland violation, and that the Mahaneys would be responsible for the violation as property owners even if the work was conducted by the previous owners, the Stones. She reiterated that the Commission had the right to discuss this and any nonconformity on the property during the review of the current application. Atty. Rucci then acquiesced.

Mr. Ferlow continued his environmental review. He said that an upland pocket located within the northern wetland area is not shown because it is isolated. He said that if the residence were shifted further away from the freshwater wetlands, it would be closer to the tidal wetlands.

In response to a question, Atty. Rucci stated that the septic system is located in the driveway turnaround area.

Mr. Hutchison recommended that the application be scheduled for a public hearing, and noted that neighbors had contested the site in the past. Mr. Ferlow argued that the application was essentially an amendment of the 2001 approval with a smaller residence. Mr. Hutchison and Ms. Cameron confirmed that a hearing would be prudent. Mr. Hutchison added that scheduling a hearing would work to everyone's advantage. Ms. Sarnier noted that it would be consistent with the Commission's practice of scheduling public hearings for properties that had received hearings for previous applications.

It was the consensus of the Commission to schedule the public hearing for Wetland Permit Application #EPC-50-2004 for the July 7, 2004 meeting.

Acting Chair Reese Hutchison read the following agenda item:

EPC-46-2004, Tom & Pam Heckle, 107 Inwood Road, requesting a determination regarding the wetlands delineation for 107 Inwood Road, and proposing additions to a single-family residence and perform related site development activities. The property is located on the north side of the cul-de-sac for Inwood Road, approximately 2,800 feet north of the intersection of Allwood Road and Inwood Road, shown on Assessor's Map #3 as Lot #12.

Ms. Cameron announced that she knows Mr. and Mrs. Heckle but feels that she can impartially site for the review of the application. There were no objections.

Bob Koch, contractor, explained that the Town map shows the lot as all wetlands, and that based on the new wetland delineation, the proposed work would be located outside the setback areas.

Upon further review and discussion of the materials and plans presented, the following motion was made: That the Commission adopt the soils delineation by Thomas Pietras of Soil Science and Environmental Services, Inc., as confirmed by Mr. Pietras' April 14, 2004 report, and shown on the plan entitled "Plot Plan Located at #107 Inwood Road, Prepared for Thomas B. & Pamela S. Heckel, Darien, Conn." by B. G. Root, Surveyor, dated August 26, 2003, revised April 29, 2004. The Town's wetland boundary map will be updated in December 2004 to reflect the new delineation. And, that based on the new information, the Commission finds that the proposed construction would not be located within a wetland area or associated 50' regulated wetland area, and therefore does not require a wetland permit approval. The motion was made by Mr. Hutchison, seconded by Ms. Cameron, and unanimously approved.

Acting Chair Reese Hutchison read the following agenda item:

EPC-47-2004, Robert K. Biggart & William R. Ballentine, 10 Peterick Lane & 201 Middlesex Road, proposing the maintenance dredging of a pond, and perform related site development activities within a regulated area. The properties are located at the northeast corner formed by the intersection of Middlesex Road and Peterick Lane, shown on Assessor's Map #9 as Lots #13A-D & 13A-C.

Ms. Cameron explained that she was related to Mr. Biggart by marriage, and recused herself.

Robert Biggart presented the application and addressed questions from the Commission. He explained that the pond was created approximately forty years ago. He explained that the application proposed the removal of leaves and debris accumulated within the pond and the installation of an aerator to improve the ecology and aesthetics of the pond. He said that to access the pond, forsythia would be removed and replanted. He said that he does not believe there is any wildlife within the pond based on its poor condition but would keep a look out. He said the pond has become acidic due to the leaves and sediments. In response to a question, Mr. Biggart explained that the aerator would be connected to his property. Mr. Hutchison opinioned that the wiring for the aerator does not pose a significant concern. Mr. Biggart added that the planting plan included irises and lilies and would be an improvement upon existing conditions.

Upon further review of the materials and plans submitted, the following motion was made: That the Commission approve as submitted Wetland Permit Application #EPC-47-2004. The work shall conform to the May 21, 2004 plan by Loglisci Water Gardens, labeled "Re: Wetlands Permit Application #EPC-47-2004, Robert K. Biggart & William R. Ballentine, 10 Peterick Lane & 201 Middlesex Rd." The motion was made by Ms. Miller, seconded by Mr. Hutchison, and unanimously approved.

Ms. Cameron rejoined the meeting. Acting Chair Reese Hutchison announced the following new agenda item:

Replacement of an Oil Tank, Massie Property, 5 Overbrook Lane:

Mr. and Mrs. Massie discussed their request to replace an underground storage tank with a temporary aboveground tank, and explained that they would file a permit request for the permanent tank installation. Mrs. Massie explained that Rowayton Fuel Company had removed the existing tank and that the tank removal was associated with the sale of the property. Mr. Hutchison agreed that insurance and mortgage companies prefer that underground tanks be removed. Mrs. Massie said that they installed the tank when the house was renovated in 1991, knowing that they would have to address it in the future.

Ms. Cameron stated that she did not have a concern with the proposal and noted that the second tank for the guesthouse would be placed within the garage. Mr. Hutchison asked if the main house could be connected to the tank in the garage. Mrs. Massie replied that the distance and between the two structures and the subsequent length of the pipe posed a problem to the installer. She referred to a letter from the installer stating that proposed Site #4 was the only place to install the tank. Other locations considered by the installer and the Massie's were noted within the application and on the plan. Mrs. Massie said that although the fuel company placed the temporary tank in the proposed location, it would not be filled until authorization is granted from the EPC. She added that she hopes to screen the temporary tank and, later, permanent tank. Mr. Hutchison recommended that, since most tanks come only primed, that it be painted for additional protection.

Mr. Massie explained that the proposed location was near the boiler and would allow easy access for a fuel truck.

Mr. Hutchison asked if the tank would be placed on a slab. Mrs. Massie replied that they would install a concrete slab, and that they hoped the screening would include thick rhododendrons and tall azaleas. Mr. Hutchison recommended that the slab be of good quality.

It was the consensus of the Commission that the temporary tank be installed adjacent to the residence as proposed, and that the Massies return with an application for the installation of a permanent tank. Mrs. Massie said the work would be completed by Friday.

Chair Reese Hutchison read the following agenda item:

EPC-42-2004, Lisa Michels, 34 Lake Drive, proposing a hot tub, and perform related site development activities within a regulated area. The property is located on the west side of Lake Drive approximately 550 feet north of the intersection of Philips Lane and Lake Drive, shown on Assessor's Map #30 as Lot #4.

Since the applicant was not present, the Commission decided to table the application until a future meeting.

Acting Chair Reese Hutchison read the following agenda item:

Discussion of a Proposed Modification to the Drive for the Pumping Station on Andrews Drive - Westmere Group, Wetland Permit #EPC-81-2002, proposing the replacement of four 8-inch diameter drainage pipes with one 12-inch minimum diameter pipe beneath the pump station driveway to facilitate drainage. The property is located on the east side of Andrews Drive approximately 400 feet south of the intersection of Andrews Drive and Old King's Highway South, shown on Assessor's Map #64 as Lot #103-5.

The Commission reviewed and approved the request to amend the Wetland Permit #EPC-81-2002 to include the replacement of the existing four 8" pipes located below the pump station driveway with one 12" pipe. The amendment was approved as shown on the plan entitled "Replacement Pipe Plan for Pump Station, Located on Andrews Drive, Westmere Group, Locust Hill Road, Darien, CT 06820" by Westmere Group, Inc., dated 5-28-04. The motion was made by Mr. Hutchison, seconded by Ms. Cameron, and unanimously approved.

Acting Chair Reese Hutchison read the following agenda item:

Discussion and Possible Decision for EPC-13-2004, Kurt & Claire Locher, 19 Meadowbrook Road, proposing installation of an inground pool, deck expansion, installation of a hot tub, and perform related site development activities within a regulated area. The property is located on the east side of Meadowbrook Road, approximately 1,010 feet east of the intersection of Meadowbrook Road and Brookside Road, shown on Assessor's Map #14 as Lot #9.

It was the consensus of the Commission to table the decision until Chairman Hillman would be available to join the deliberation.

Acting Chair Reese Hutchison read the following agenda item:

Discussion and Possible Decision for EPC-21-2004, Boulder Ridge, Inc., Old Oak Road, proposing the regrading and restoration of a stream corridor to eliminate a man-made pond, drainage improvements, removal of invasive plant species, planting of native wetland species, and perform related site development activities within a regulated area. The property is located on the west side of Old Oak Road at its intersection with Leeuwarden Road, and is shown on Assessor's Map #29 as Lot #128.

Upon discussion and consideration of the application file, the following resolution was adopted:

TOWN OF DARIEN
ENVIRONMENTAL PROTECTION COMMISSION
PERMIT TO CONDUCT A REGULATED ACTIVITY

EFFECTIVE DATE: JUNE 2, 2004
EXPIRATION DATE: JUNE 2, 2009

Application Number: EPC-21-2004

Applicant's Name and Address: Boulder Ridge Inc.
11 Old Oak Road
Darien, CT 06820

Property Address of Proposed Activity: Lot 128, Old Oak Road
Darien, CT 06820

Name and Address of Applicant's Representative: Woody Oldrin
Round Meadow Landscapes
PO Box 1634
Darien, CT 06820

Proposed Activity: Regrading and restoration of a stream corridor to eliminate a man-made pond, drainage improvements, removal of invasive plant species, planting of native wetland species, and perform related site development activities within a regulated area

Shown on Tax Assessor's Map #2 as Lot #128.

The Environmental Protection Commission has considered the application with due regard to the matters enumerated in Section 21a-41 of the Connecticut General Statutes as amended and in accordance with Section 10 of the Inland Wetlands and Watercourse Regulations of the Town of Darien, and has found that the proposed work is in conformance with the purposes and provisions of said sections.

This authorization refers to the application to conduct regulated activities within and adjacent to inland wetlands and a waterway within the Town of Darien. The Commission has conducted its review and findings on the bases that:

- In issuing this permit, the Commission has relied on the applicants' assurances, and makes no warranties and assumes no liability as to the structural integrity of the design or any structures, nor to the engineering feasibility or efficacy of such design.
- In evaluating this application, the Environmental Protection Commission has relied on information provided by the applicants. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, after interested parties have had an opportunity to be heard at a duly noticed public hearing this permit shall be modified, suspended or revoked by the Commission.

The Environmental Protection Commission met for a general meeting for the application on April 21, 2004, and a public hearing for the application on May 19, 2004. During the Commission's meeting and hearing, the applicants' representatives presented information explaining the project and provided answers to concerns and questions raised by the Commission, Commission staff and the general public. The general public, including nearby property owners, was provided an opportunity to express their opinions and comment regarding the proposed development.

Following careful review of the submitted application materials and related analysis, the Commission, all of whose members are fully familiar with the site and its surroundings, finds:

A. APPLICATION PROJECT DESCRIPTION

Boulder Ridge Inc. filed the application to seek permission to eliminate the standing water and invasive plant species by restoring the natural flow of the stream corridor. The man-made pond located within the northern portion of their property would be filled. The area would be regraded and planted with native species. Selected tree removal would be required. Existing swales would be connected through the area of the former pond, and outlets of existing culverts would be protected with riprap and hardy plantings.

B. SITE DESCRIPTION

The homeowners association, Boulder Ridge Inc, owns the subject property. The ±3.82-acre property is located on the west side of Old Oak Road at its intersection with Leeuwarden Road. The site is used as a private park for Boulder Ridge Inc. and has been developed with a tennis court, playground, and small gravel drive. The man-made pond located in the northern portion of the site has become filled with sediments over the years. The pond was created within a small watercourse that flows east to west across the northern portion of the property. The area has become overtaken by invasive species, including Phragmites, Japanese Barberry, Cleodastris, Multiflora Rose, Euonymus, and Norway Maple. Culverts beneath Old Oak Road drain onto the property through swales

C. HEARING PRESENTATIONS AND RECORD

1. Existing Conditions Survey – “Topographic Survey of a portion of Assessor’s Map 29 Lot 128, Prepared for Boulder Ridge Association, Darien, Connecticut” by William W. Seymour & Associates, P.C., dated June 17, 2002, last revised March 8, 2004.
2. Final Proposed Survey –
 1. “Tree Removal and Erosion Control Plan, Boulder Ridge Association, Leeuwarden & Old Oak Road, Darien, Connecticut” Sheet L-1.0, by Round Meadow Landscapes Inc, dated March 10, 2004, Rev. March 29, 2004.
 2. “Overall Landscape Plan, Boulder Ridge Association, Leeuwarden & Old Oak Road, Darien, Connecticut” Sheet L-20, by Round Meadow Landscapes Inc, dated March 10, 2004, Rev. March 29, 2004.
 3. “Stream Restoration Details, Association, Leeuwarden & Old Oak Road, Darien, Connecticut” Sheet L-3.0, by Round Meadow Landscapes Inc, dated March 10, 2004, Rev. March 29, 2004.
3. Original Proposed Survey –
 1. “Tree Removal and Erosion Control Plan, Boulder Ridge Association, Leeuwarden & Old Oak Road, Darien, Connecticut” Sheet L-1.0, by Round Meadow Landscapes Inc, dated March 10, 2004.
 2. “Overall Landscape Plan, Boulder Ridge Association, Leeuwarden & Old Oak Road, Darien, Connecticut” Sheet L-20, by Round Meadow Landscapes Inc, dated March 10, 2004.
 3. “Stream Restoration Details, Association, Leeuwarden & Old Oak Road, Darien, Connecticut” Sheet L-3.0, by Round Meadow Landscapes Inc, dated March 10, 2004.
4. Drainage Report –
 1. “Drainage Report: Boulder Ridge Association, Leeuwarden Road, Darien, Connecticut” by Stearns & Wheler Companies, dated March 2004.
 2. “Drainage Report: Boulder Ridge Association, Leeuwarden Road, Darien, Connecticut” by Stearns & Wheler Companies, dated March 2004, revised May 2004.
5. Soils Report – “Soil Report: Boulder Ridge Condominium Assoc., 101 Leeuwarden Rd., Darien, CT” by Soil Science and Environmental Services, Inc., dated April 15, 2004.
6. Application for Permission to Conduct a Regulated Activity within an Inland Wetland or Watercourse Area within the Town of Darien, signed by John W. Oldrin, March 10, 2004.
7. Location Map showing Location of Proposed Restoration.
8. Adjacent Property Owner List for Bould[er] Ridge Park, Old Oak Road and Leeuwarden Road, Darien, Connecticut (Map 29, Lot 128).
9. Narrative – 6.b General Description, undated.
10. Narrative – 6.e Construction method, materials, machinery, undated.
11. Narrative – 6.e Construction method, materials, machinery, amended per April 21 EPC Review.

12. Plant List – Pond and Stream Corridor, from Round Meadow Landscapes, Inc., undated.
13. Plant List – Pond and Stream Corridor, from Round Meadow Landscapes, Inc., revised 3/29/04.
14. Plant List – Old Oak Road and Slope, from Round Meadow Landscapes, Inc., undated.
15. Plant List – Old Oak Road and Slope, from Round Meadow Landscapes, Inc., revised 3/29/2004.
16. Proof of Mailing, received by the Planning and Zoning Office on May 12, 2004.
17. Table – Mailing List for 19 Meadowbrook Road, Neighbors within 100 Feet of Project Area, dated 4/27/2004.
18. Letter to Woody Oldrin, Round Meadow Landscapes from Nancy H. Sarner, Environmental/GIS Analyst, dated March 18, 2004.
19. Letter to Nancy Sarner, E.P.C., from Woody Oldrin, Round Meadow Landscapes Inc., dated March 29, 2004.
20. Memorandum to EPC Members from Nancy Sarner, dated April 7, 2004, Re: Boulder Ridge Park, #EPC-21-2004.
21. Letter to Woody Oldrin, Round Meadow Landscapes from Nancy H. Sarner, Environmental/GIS Analyst, dated April 27, 2004.

D. ITEMS/ISSUES OF CONCERN TO THE COMMISSION

1. Impact to Wetlands and Watercourses

In carrying out its duties, the Commission has taken into consideration the standards established under the regulations, and reviewed the plans and reports provided the applicant, as well as heard testimony from the applicants' representative, John (Woody) Oldrin of Round Meadow Landscapes, Inc.

The Commission accepts Mr. Oldrin and Stearns & Wheler's opinion that the wetland and stream corridor would benefit for the restoration of the stream corridor. Under existing conditions, the dam has been breached and therefore has not held any water for sometime; therefore, the proposal does not represent a significant impact on the wetlands and stream corridor. The elimination of standing water would be advantageous as it leads to the proliferation of Phragmites, as well as larger mosquito populations.

The Commission reviewed the proposed plan for the revegetation and enhancement of the wetland area. The Commission accepts the testimony and findings of Mr. Oldrin that the biodiversity and habitat value of the wetlands would be increased by the proposed enhancement and revegetation of the wetland area, including the removal of invasive species.

2. Drainage

The Commission has reviewed the proposal's potential to impact downstream neighbors, to adversely alter stormwater retention on the site, and to reduce the capacity for the wetlands to transmit and absorb stormwater. It has read the reports and considered the testimony of the applicant's representatives, and accepts the finding of Stearns & Wheler, LLC, that there would be no increase in peak runoff discharge between existing conditions and the proposed conditions.

3. Removal of Invasive Species

The Commission encourages property owners to rid their properties of invasive species. It appreciates the Boulder Ridge Inc. proposal to remove the colonies of the several varieties of invasive plants located on their property and introduce hardy, native plant species to the wetlands and buffer areas.

E. DECISION

The Commission hereby approves the applicant's amended request, subject to the following stipulations:

1. This is a conditional approval. Each and all of the conditions herein are an integral part of the Commission's decision.
2. The Commission approves the filling of the man-made pond. The work activity shall be conducted in accordance with the revised plans, entitled:
 1. "Tree Removal and Erosion Control Plan, Boulder Ridge Association, Leeuwarden & Old Oak Road, Darien, Connecticut" Sheet L-1.0, by Round Meadow Landscapes Inc., dated March 10, 2004, Rev. March 29, 2004.
 2. "Overall Landscape Plan, Boulder Ridge Association, Leeuwarden & Old Oak Road, Darien, Connecticut" Sheet L-20, by Round Meadow Landscapes Inc, dated March 10, 2004, Rev. March 29, 2004.
 3. "Stream Restoration Details, Association, Leeuwarden & Old Oak Road, Darien, Connecticut" Sheet L-3.0, by Round Meadow Landscapes Inc, dated March 10, 2004, Rev. March 29, 2004.
3. One application of Round-up may be used for the eradication of the stand of Phragmites prior to the placement of fill in the area.
4. The stream channel located adjacent to the existing play equipment shall be clean of sand and sediment by hand.

5. The work and regulated activities are limited to that which is approved, and shall be consistent with the terms and conditions of this permit. Prior to implementation, any possible revisions to the plans must be submitted to and reviewed by the Planning and Zoning Office in accordance with Section 7.8 of the Inland Wetlands and Watercourses Regulations to determine conformance to this approval, and may require an amendment approval by the Environmental Protection Commission. Any clearing, excavation, fill, obstructions, encroachment or regulated activities not specifically identified and authorized herein shall constitute a violation of this permit and may result in its modification, suspension or revocation. Upon the initiation of the activities authorized herein, the permittee would thereby accept and agree to comply with the terms and conditions of this permits.
6. Tree protection fencing shall be installed at the critical root zone of trees that are to be preserved along the construction access and within the construction area upland of the stonewall, whenever possible. The critical root zone can be determined by multiplying the diameter at breast height (dbh) by 1.5'. The dbh is measured 4.5't for the ground. (For example, a tree with a diameter of 30" will require a critical root zone radius of 45 feet.) The minimum radius for protective fencing shall be 10'. The fencing must be at least 4' in height. If access does not allow for the protective fencing to be installed at the critical root zone, it shall be installed as far from the trunk as possible, or wrapped around the trunk to protect the bark.
7. All sediment and erosion controls and construction barriers shall be installed prior to the commencement of any work activity as shown on Sheet L1.0, revised March 29, 2004 by Round Meadow Landscapes, Inc. The bottom of the silt fence shall be buried a minimum of 6" into the soil and shall be backfilled with suitable material. All controls must be inspected daily by the permittee or their representative. Any sagging, undermining, or damage to the silt fence or construction barrier must be repaired immediately.
8. The permittee shall notify the Environmental Protection Commission staff after the sediment and erosion controls and protective tree fencing are in place. The staff will inspect the erosion controls and protective fencing to make sure that they are sufficient and as per plan
9. Sediment and erosion controls shown on the plans shall be maintained throughout the construction process and shall only be removed when the disturbed areas have been adequately re-stabilized with suitable vegetation.
10. The permittee shall notify the Environmental Protection Commission immediately upon commencement of work and upon its completion.
11. No equipment or material, including without limitation, fill, construction materials, debris, or other items shall be deposited, placed or stored in any wetland or setback area on or off site unless specifically authorized by this permit.
12. This permit does not relieve the applicant of their responsibility to comply with all other applicable rules, regulations, and codes of other Town agencies or other regulating agencies.

13. The duration of this permit shall be five (5) years and shall expire on the date specified above. All proposed activities must be completed and all conditions of this permit must be met within one (1) year from the commencement of the proposed activity.

The motion was made by Ms. Cameron, seconded by Ms. Miller, and unanimously approved.

Acting Chair Reese Hutchison read the following agenda item:

Discussion and Possible Decision for EPC 24-2004, Richard & Robin Woods, 137 Five Mile River Road, proposing a stone and concrete retaining wall on the seaward slope of the property for erosion control purposes and perform related site development activities within a regulated area. The property is located on the east side of Five Mile River Road approximately 1,150 feet south of the intersection of Davis Lane and Five Mile River Road, shown on Assessor's Map #67 as Lot #5.

Upon discussion and consideration of the application file, the following resolution was adopted:

TOWN OF DARIEN
ENVIRONMENTAL PROTECTION COMMISSION
PERMIT TO CONDUCT A REGULATED ACTIVITY

EFFECTIVE DATE: JUNE 2, 2004
EXPIRATION DATE: JUNE 2, 2009

Application Number: EPC-24-2004

Applicant's Name and Address: Richard & Robin Woods
174 Mansfield Avenue
Darien, CT 06820

Property Address of Proposed Activity: 137 Five Mile River Road
Darien, CT 06820

Name and Address of Applicant's Representative: William W. Seymour & Assoc.
170 Norton Avenue
Darien, CT 06820

Proposed Activity: Proposing a stone and concrete retaining wall on the seaward slope of the property for erosion control purposes and perform related site development activities within a regulated area

Shown on Tax Assessor's Map #67 as Lot #5.

The Environmental Protection Commission has considered the application with due regard to the matters enumerated in Section 21a-41 of the Connecticut General Statutes as amended and in accordance with Section 10 of the Inland Wetlands and Watercourses Regulations of the Town

of Darien, and has found that the proposed work is in conformance with the purposes and provisions of said sections.

This authorization refers to the application to conduct regulated activities within and adjacent to the Five Mile River within the Town of Darien. The Commission has conducted its review and findings on the bases that:

- In issuing this permit, the Commission has relied on the applicants' assurances, and makes no warranties and assumes no liability as to the structural integrity of the design or any structures, nor to the engineering feasibility or efficacy of such design.
- In evaluating this application, the Environmental Protection Commission has relied on information provided by the applicants. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, after interested parties have had an opportunity to be heard at a duly noticed public hearing this permit shall be modified, suspended or revoked by the Commission.

The Environmental Protection Commission met for a general meeting for the application on April 21, 2004, and a public hearing for the application on May 19, 2004. During the EPC's meeting and hearing, the applicants' representatives presented information explaining the project and provided answers to concerns and questions raised by the Commission, Commission staff and the general public. The general public, including nearby property owners, was provided an opportunity to express their opinions and comment regarding the proposed development.

Following careful review of the submitted application materials and related analysis, the Commission, all of whose members are fully familiar with the site and its surroundings, finds:

A. APPLICATION PROJECT DESCRIPTION

The application proposes the construction of a 27' long low stone and mortar retaining wall above the High Tide Line along the eastern reach of the backyard. The work would be conducted using floating equipment, complemented by land-based personnel. Also, materials would be brought to the work site on floating barges and offloaded during high tide conditions. ±95 cubic feet of fill would be placed behind the retaining wall to replace soils lost through erosion. The soil will also provide a base for plantings.

B. SITE DESCRIPTION

The residential property is located on the western side of Five Mile River. It is partially located within the limits of the 100-Year Flood Zone. The backyard area, which abuts the river, is protected from erosion by an existing stone and masonry vertical sea wall along the western extent of the shoreline. The eastern reach consists of a thin veneer of topsoil and maintained grass over ledge outcrop. This area is subject to erosion by storm effects and surface runoff. The surface runoff may be the main contributing factor of the erosion, causing soil to slough and erode from the banks.

C. HEARING PRESENTATIONS AND RECORD

2. Proposed Plan – “Stone & Masonry Wall Construction, Woods Residence, 137 Five Mile River Road, Darien, Connecticut,” Sheet D-01, by Roberge Associates Coastal Engineers, LLC, dated 2-23-04.
3. Engineer’s Report – Letter to Mr. Jeremy Ginsberg, Town of Darien Planning and Zoning from John C. Roberge, Roberge Associates Coastal Engineers, LLC, Reference: Woods Residence – 137 Five Mile River Road, Hydrological Assessment of Proposed Retaining Wall.
4. Addendum to Coastal Area Management (CAM) Application, from Roberge Associates Coastal Engineers, LLC, dated March 9, 2004.
5. Application for Permission to Conduct a Regulated Activity within an Inland Wetland or Watercourse Area within the Town of Darien, dated 3/10/04.
6. Addendum to EPC Narrative – Woods, #137 Five Mile River Road, from John C. Roberge, P.E., Roberge Associates Coastal Engineers, LLC, dated March 25, 2004.
7. Property Owners within 100’ of 137 Five Mile River Road ~ Woods Residence, from William W. Seymour & Associates, P.C.
8. Letter to Jeffrey McDougal, William W. Seymour & Associates from Nancy H. Sarner, Environmental/GIS Analyst, dated March 19, 2004.
9. Certified Mailing for Notification of Wetland Permit to City of Norwalk, from William W. Seymour & Associates, P.C., dated March 22, 2004.
10. Letter to Jeffrey McDougal, William W. Seymour & Associates from Nancy H. Sarner, Environmental/GIS Analyst, dated April 27, 2004.
11. Proof of Mailing, received by the Planning and Zoning Office on May 11, 2004.
12. Site Photographs – Photograph 1~3, dated April 19, 2004.
13. Forwarded electronic mail dated April 28, 2004. Original electronic mail from John Gaucher, Coastal Planner II, Office of Long Island Sound Programs, CT DEP, to Jeremy Ginsberg, Director of Planning and Zoning, dated April 27, 2004.

D. ITEMS/ISSUES OF CONCERN TO THE COMMISSION

1. Impact to the Five Miler River

The Commission reviewed plans and reports, and heard testimony from by the applicants' agent, John Roberge, P.E., of Roberge Associates Coastal Engineers, LLC. It accepts Mr. Roberge's opinion that the proposed stone retaining wall would not alter the site hydrology, and that no increases in impermeable surface area and surface runoff have been proposed.

The Commission finds that the methods to be used for the construction of the retaining wall, including the use of floating equipment to bring materials to the site and conduct the activity, should minimize disturbance to the river's shoreline.

The Commission agrees with Mr. Roberge's conclusion that the retaining wall, with the associated plantings, would provide a benefit to the waters of Five Mile River.

2. Review of Prudent and Feasible Alternatives

The Commission agrees with the applicants and their representatives that the impact of erosion on the slope should be addressed. Although the Commission prefers to seek non-structural solutions to erosion problems, it accepts the opinion of Mr. Roberge that such mitigative measures would not offer a permanent solution due to erosion caused by the overland flow of stormwater.

E. DECISION

The Commission hereby approves the applicant's amended request, subject to the following stipulations:

1. This is a conditional approval. Each and all of the conditions herein are an integral part of the Commission's decision.
2. The Commission approves the construction of a stone and masonry retaining wall, and related site development activity. The work activity shall be conducted in accordance with the plans, entitled "Stone & Masonry Wall Construction, Woods Residence, 137 Five Mile River Road, Darien, Connecticut," Sheet D-01, by Roberge Associates Coastal Engineers, LLC, dated 2-23-04, as modified by this resolution.
3. A planting plan for the area of fill shall be submitted for review and approval by Commission Member Susan Cameron and Commission Staff Nancy Sarner.
4. The plantings are an integral part of this approval and must be completed prior to the issuance of a Certificate of Occupancy.
5. The work shall be performed using floating equipment, complemented by land-based personnel. Materials, i.e., stone and concrete, shall be brought to the work site on floating barges and offloaded during high tide conditions.
6. The work and regulated activities are limited to that which is approved, and shall be consistent with the terms and conditions of this permit. Prior to implementation, any possible revisions to the plans must be submitted to and reviewed by the Planning and Zoning Office

in accordance with Section 7.8 of the Inland Wetlands and Watercourses Regulations to determine conformance to this approval, and may require an amendment approval by the Environmental Protection Commission. Any clearing, excavation, fill, obstructions, encroachment or regulated activities not specifically identified and authorized herein shall constitute a violation of this permit and may result in its modification, suspension or revocation. Upon the initiation of the activities authorized herein, the permittee would thereby accept and agree to comply with the terms and conditions of this permits.

7. All sediment and erosion controls and construction barriers shall be installed prior to the commencement of any work activity as shown on the 2-23-04 plan by Roberge Associates Coastal Engineers, LLC. The bottom of the silt fence shall be buried a minimum of 6" into the soil and shall be backfilled with suitable material. All controls must be inspected daily by the permittee or their representative. Any sagging, undermining, or damage to the silt fence or construction barrier must be repaired immediately.
8. The permittee shall notify the Environmental Protection Commission staff after the sediment and erosion controls are in place. The staff will inspect the erosion controls and protective fencing to make sure that they are sufficient and as per plan
9. Sediment and erosion controls shown on the plans shall be maintained throughout the construction process and shall only be removed when the disturbed areas have been adequately re-stabilized with suitable vegetation.
10. The permittee shall notify the Environmental Protection Commission immediately upon commencement of work and upon its completion.
11. No equipment or material, including without limitation, fill, construction materials, debris, or other items shall be deposited, placed or stored in any wetland or setback area on or off site unless specifically authorized by this permit.
12. This permit does not relieve the applicant of their responsibility to comply with all other applicable rules, regulations, and codes of other Town agencies or other regulating agencies.
13. The duration of this permit shall be five (5) years and shall expire on the date specified above. All proposed activities must be completed and all conditions of this permit must be met within one (1) year from the commencement of the proposed activity.

The motion was made by Mr. Hutchison, seconded by Ms. Miller, and unanimously approved.

P& Z Transmittal:

1. Change of Zone Application, Amendment to Zoning Regulations, Dominick & Annette Miceli, Wakeman Road. Proposing to remove the Wakeman Road Affordable Housing Overlay Zone from the Darien Zoning Map, and delete Section 560 from the Darien Zoning Regulations.

Ms. Cameron and Ms. Miller formed a subcommittee to review the transmittal request from the Planning and Zoning Commission for the Change of Zone application for Wakeman Road.

2. Coastal Site Plan Review #85-A, Flood Damage Prevention Application #72-A, Jerry & Susan Elliot, 97 Five Mile River Road. Proposing to raze the existing garage and construct additions and alterations to the existing residence, construct a new septic system and perform related site development activities within a regulated area.

Commission staff will forward the Commission's decision for pending Wetland Permit #EPC-49-2004 to the Planning and Zoning Commission, once adopted.

3. Coastal Site Plan Review #138-C, Flood Damage Prevention Application #140-C, Janice A. Mahaney, 26 Shipway Road. Proposing to construct a new single-family residence, including porch and garage and perform related site development activities within regulated areas.

Commission staff will forward the Commission's decision for pending Wetland Permit #EPC-50-2004 to the Planning and Zoning Commission, once adopted.

4. Land Filling & Regrading Application #53-B, Mandatory Referral, Darien Board of Education, Darien High School, 80 High School Lane. Proposing to install a synthetic turf multi-use athletic field and running track and perform related site development activities.

Commission staff will forward the Commission's decision for pending Wetland Permit #EPC-52-2004 to the Planning and Zoning Commission, once adopted.

Approval of the April 21, 2004 Meeting Minutes:

It was the consensus of the Commission to adopt the meeting minutes for the April 21, 2004, as corrected.

Other Business:

Pamphlet for Environmental Protection Commission:

Ms. Miller reported on her continued work to create an educational pamphlet regarding the role of the Commission and the protection of wetlands within the Town of Darien, and presented a draft for review.

Restoration Activity at the O'Hare Property, 45 Brookside Road:

Ms. Miller and Ms. Cameron agreed to meet Ms. Sarner at 45 Brookside Road to review the completed plantings required under the required restoration of the wetlands and easement area at the property.

Repair of the Tidal Gates at Gorham's Pond:

Ms. Sarner reviewed the proposed emergency repair of the tidal gates at Gorham's Pond, as outlined within the June 2, 2004 letter from Timothy Tully, President of the Friends of Gorham's Pond. It was the consensus of the Commission that the underwater work to chip the rock that prevents the gates from properly closing as designed does not pose an impact to Gorham's Pond and should begin as soon as possible without further review by the Commission. In fact, the Commission determined that the work would benefit the pond by preventing further the loss of water from the pond at each tide.

Adjournment: Having no further business to attend to, the Commission adjourned the June 2, 2004 meeting at 11:00 p.m.

Respectfully submitted,

Nancy H. Sarner
Environmental/GIS Analyst