

**ENVIRONMENTAL PROTECTION COMMISSION
GENERAL MEETING & PUBLIC HEARING
MEETING MINUTES
NOVEMBER 3, 2004**

Commission Members Present:

Peter Hillman, Susan Cameron, Robert Kenyon, Ellen Kirby, Edwin Lewis, and Nina Miller

Commission Staff Present: David Keating, Jeremy Ginsberg

Court Monitor: Bonnie Syat

Mr. Hillman stated that regular meeting business will flow until 8:30 p.m., and then the EPC will go to the two public hearing items and upon completion of those, will resume to the general meeting agenda.

Discussion of Environmental Protection Commission procedures and regulations regarding performance bonds.

The EPC members welcomed Special Counsel Ira Bloom of Westport. Mr. Bloom works in the Town and Municipal land use area and has been asked to assist the Environmental Protection Commission on bond procedures. Mr. Bloom and Mr. Ginsberg have looked at other local town's written bond policies. EPC members received a one-page memo from Mr. Ginsberg with a proposed policy statement.

The memo explained current bond policy, and states that the Town will accept a variety of formats, including a Certificate of Deposit from any bank located in Fairfield County. The main point of a bond is to ensure that the work is properly completed in a timely manner, and ultimately, to protect the wetlands.

Ms. Cameron stated that the applicant may not be a private property owner, but rather a non-profit group or organization. Such an entity may find that posting funds may be more difficult than a private property owner. She asked if there should be a different set of rules for non-profit organizations. Mr. Hillman answered that the Town should only have one set of rules, so as not to have property owners get confused. Mr. Bloom said that the Town could face legal situations if double standards exist, and there is more risk with non-profit groups, such as religious groups. Thus, everyone should abide by the same policies. Ms. Kirby stated that the problem will exist not with different groups but with different projects.

Mr. Bloom stated that the Environmental Protection Commission reserves the right as to whether or not a bond is needed. Mr. Kenyon said that the Town needs an insurable interest in any bond. Mr. Bloom said that the Town's policy must be consistent. Mr. Lewis added that the policy seems generally acceptable to Commission members.

Mr. Ginsberg explained that the Planning and Zoning Commission does not usually require bonds too often. Mr. Ginsberg stated that the town needs a straightforward policy so that there is no argument or confusion.

Ms. Kirby asked whether the Town does in fact have domain over River. Mr. Ginsberg will check to see if that assumption is valid. Mr. Hillman summarized by noting that Mr. Ginsberg, Mr. Bloom and Mr. Kenyon will go back to the drawing board to cover all areas of concern ahead of time. Mr. Hillman responded that the EPC has the right to request a bond whether or not the property is in violation. Mr. Hillman then asked if there were any other questions of Mr. Bloom. There were none. The Commission noted their appreciation for all of Mr. Bloom's work on this matter.

At 8:00pm, Mr. Hillman read the next agenda item:

Discussion of Sediment and Erosion Controls for the Darien High School Project, EPC-49-2001, Board of Education, 80 High School Lane.

Ms. Cameron stated that she has been on-site every other week since August, and noted the lack of erosion controls on the baseball field. She has not seen progress week to week. The EPC members spoke about getting Guerrera Construction to install erosion controls as a long-term solution. An example is in the northwest corner where the most trouble exists. Ms. Miller and Ms. Sarnier saw the need for ground cover in April – it has still not been done. An Ash tree is dead and 2 beeches are dying. Mr. Kenyon asked if there are any drawings for erosion controls. The permit application did include detailed plans for erosion control.

Mr. Hillman said that instead of an invitation to the High School Building Committee to meet with the EPC, the EPC needs to “cut to the chase” and request information and get the situation corrected. Mr. Lewis suggested issuing a cease and desist order. Commission members believed that a letter from Mr. Keating noting the existing problems was appropriate. That letter should list deadlines for remedying the situation regarding the erosion controls. If after that time, the problems have not been cured, a Cease and Desist Order may be appropriate.

Mr. Hillman then read the next agenda item:

Discussion and Possible Decision regarding EPC-76-2004, Elizabeth Phillips, 7 McLaren Road, proposing the correction of a violation of the Town's Inland Wetland and Watercourses Regulations, and perform related site development activities within a regulated area. The violation involves the unauthorized clearing of trees and understory vegetation, regrading, and associated impacts to the regulated setback and wetland areas. Discussion shall include a review of the unauthorized regulated activities and consideration of proposed remediation. The property is located on the north side of McLaren Road approximately 275 feet east of the intersection of the intersection of McLaren Road and Leroy Avenue, shown on Assessor's Map #6 as Lot #34.

Ms. Cameron recused herself from this matter. Commission members acknowledged that the Town Inland Wetland and Watercourses Map did not show wetlands on Ms. Phillips' property. The draft resolution was discussed and modified to improve clarity. Mr. Hillman made a motion to adopt the resolution with minor corrections as noted by him and agreed to by the rest of the Commission. Ms. Miller seconded that motion. That motion was approved by a vote of 5-0. Ms. Cameron abstained. The adopted resolution reads as follows:

TOWN OF DARIEN
ENVIRONMENTAL PROTECTION COMMISSION

PERMIT TO CONDUCT A REGULATED ACTIVITY

EFFECTIVE DATE: NOVEMBER 3, 2004
EXPIRATION DATE: NOVEMBER 3, 2009

Application Number: EPC-76-2004

Applicant's Name and Address: Elizabeth Phillips
7 McLaren Road
Darien, CT 06820

Property Address of Proposed Activity: 7 McLaren Road
Darien, CT 06820

Name and Address of Applicant's Representative: Mark Lebow
William W. Seymour & Associates
170 Noroton Avenue
Darien, CT 06820

Proposed Activity: Proposing the replanting and restoration of newly designated disturbed wetlands for the correction of a violation of the Town's Inland Wetland and Watercourses Regulations, and perform related site development activities within a regulated area.

Shown on Tax Assessor's Map #6 as Lot #34.

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 inland wetlands 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 applicant's 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 applicant. 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 August 11, 2004, and a public hearing for the application on October 6, 2004 and October 20, 2004. During the EPC's meeting and hearing, the applicant's 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 and their representative, 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 restoration of a disturbed wetlands area. Prior to the unauthorized clearing activity, the rear portion of the property was maintained in a natural condition with trees of varying sizes, as well as some poison ivy. Work includes the repair of the ground surface where disturbed by the tree removal equipment, replacement of vegetation with native wetland species, and a modest expansion of the lawn area. The plant species have been selected for their appropriateness for the site, such as sun, shade and relative moisture levels. Replacement plants include River Birch (tree), Witch Hazel (small shrub or tree), Swamp Azalea (shrub) and Pussy Willow (shrub). Ground cover would be re-established with the planting of Royal Fern, New England Aster, and Turtlehead, and the dispersion of a New England Wetland Seed Mix. The plantings would be installed by hand without the use of heavy machinery.

B. SITE DESCRIPTION:

The $\pm 25,272$ -square foot or ± 0.580 acre property is located on the north side of McLaren Road. The Town wetland boundary map does not show wetlands on the property. Consequently, the applicant did not commit a knowing violation. The property owner subsequently obtained the services of Soil Science & Environmental Services, Inc. to delineate the wetlands soils. The firm identified $\pm 7,200$ square feet or ± 0.165 acres of wetlands on the property within the rear portion of the property. The property has been residentially developed with a single-family residence, flagstone patio, manicured lawn and gardens, and driveway, some of which is located within the 50' wetland setback area. The property is relatively level but gently slopes to the southwest and west. Three roof leaders from the eastern neighbor discharge into the wetlands. The western neighbor has installed a catch basin and fence along or near the shared property boundary.

C. HEARING PRESENTATION AND RECORD:

The hearing presentation and application record include, but is not limited to, the following:

1. Application for Permission to Conduct a Regulated Activity within an Inland Wetland or Watercourse Area in the Town of Darien, signed by Mark S. Lebow, William W. Seymour & Assoc., agent for owner, dated 7/14/04.
2. Letter of authorization, addressed to Town of Darien Environmental Protection Commission, from Elizabeth (“Lisa”) Phillips, dated July 12th, 2004.
3. Section of a past town wetland map, with property location highlighted, received by the Planning and Zoning Office on July 14, 2004.
4. List of Property Owners within 100’ of Elizabeth (Lisa) Phillips, #7 McLaren Road, Darien, Connecticut 06820.
5. Narrative, Phillips Property – 7 McLaren Road, received by the Planning and Zoning Office on July 14, 2004.
6. Soils Report – “Phillips Residence, 7 McLaren Road, Darien, CT” by Soil Science and Environmental Services, Inc., dated April 14, 2004.
7. Survey – “Zoning Location & Topographic Survey, 7 McLaren Road, Prepared for Elizabeth B. Phillips, Darien, Connecticut” by William W. Seymour & Associates, P.C., dated April 29, 2004.
8. Estimate – Lisa Phillips, 7 McLaren Road, Darien, CT 06820, from Garden Aesthetics Ltd., dated September 24, 2004.
9. Invoice – Lisa Phillips, 7 McLaren Road, Darien, CT 06820, from Garden Aesthetics Ltd., dated May 21, 2004.
10. “Wetlands Plan, Lisa Phillips, 7 McLaren Road, Darien, CT” by Garden Aesthetics Ltd., undated, received during the October 6, 2004 Public Hearing of the Environmental Protection Commission.
11. “Wetlands Plan, Lisa Phillips, 7 McLaren Road, Darien, CT” by Garden Aesthetics Ltd., undated, received by the Planning and Zoning Office on October 15, 2004
12. “Wetlands Plan, Lisa Phillips, 7 McLaren Road, Darien, CT” by Garden Aesthetics Ltd., undated, received by the Planning and Zoning Office on July 14, 2004
13. Letter to Darien Planning and Zoning Commission from Michael B. Christiano, Garden Aesthetics Ltd., dated July 12, 2004.
14. Letter to Mr. John M. Phillips and Mrs. Elizabeth Phillips, from Robert Woodside, Code Compliance Officer, Re: Notice of Violation, 7 McLaren Road, dated March 16, 2004.
15. Letter to Mark Lebow, William W. Seymour & Associates, from Nancy H. Sarner, Environmental/GIS Analyst, dated July 21, 2004.

16. Letter to Ms. Nancy Sarner, Environmental/GIS Analyst, from Mark S. Lebow, William W. Seymour & Associates, dated July 28, 2004.
17. Letter to Mark Lebow, William W. Seymour & Associates, from Nancy H. Sarner, Environmental/GIS Analyst, dated July 30, 2004.
18. Letter to Mark Lebow, William W. Seymour & Associates, from Nancy H. Sarner, Environmental/GIS Analyst, dated September 15, 2004.
19. Letter to Ms. Nancy Sarner, Environmental/GIS Analyst, from Mark S. Lebow, William W. Seymour & Associates, dated October 15, 2004.
20. Letter to Robert Woodside, Code Compliance Officer and Nancy Sarner, Environmental/GIS Analyst, from Robert M. Frangione, Jr., P.E., dated October 18, 2004, with attachments.
21. Proof of Certified Mailings, dated 09/21/04, with attached September 20, 2004 letter from William W. Seymour & Associates and Legal Notice.
22. Names and Addressee of Property Owners within 100' of Elizabeth Phillips ~ 7 McLaren Road, received by the Planning and Zoning Office on September 22, 2004.
23. GIS Mailing List with Map for 7 McLaren Road, Neighbors within 100' of Project Area, dated 9/17/2004.
24. Site Photographs of the Torre Property at 158 Leroy Avenue, untitled and undated, received during the October 6, 2004 Public Hearing.

D. ITEMS/ISSUES OF CONCERN TO THE COMMISSION:

1. Impacts to Wetlands:

The violation involved the clearing of the wetlands located within the rear portion of the property. Except for one 24" tree, the trees of 12" dbh or larger had not been removed. It was determined that no long term significant impacts to the wetland soils were anticipated. The Commission finds that it would be impossible to recreate the site's pre-existing conditions, but that it is its duty and goal that the remediation plan put in place a sufficient amount of new plantings that over time would be as dense and diverse, or more so, than the prior conditions.

2. Impacts to Drainage:

The Commission reviewed the October 18, 2004 letter with attachment from S.E. Minor & Co., Inc., and heard testimony from Mark Lebow, LS, and Robert Frangione, P.E. The Commission concluded they could not determine if the flooding on the Torre property is the direct result of the clearing of the Phillips' backyard, or product of a combination of issues, including but not limited to blocked or clogged drain(s) and catch basin(s) on the Torre property, the nature and existing condition of the wetlands on the Torre property, the unusual weather conditions over the past six months, and/or development elsewhere. Nor is it the

function of the Commission to adjudicate if a wetlands violation has caused adverse conditions on an abutting property. In any event, the Commission finds that to best address any possible impacts from the violation, a remediation planting plan that would maintain the property in a natural, wooded condition shall be implemented.

3. Suitability of the Proposed Restoration/Remediation Plan:

As discussed above, the Commission finds that it would be impossible to recreate the site's pre-existing conditions, but that it is its duty and goal that the remediation plan put in place a sufficient amount of new plantings to mimic or enhance the prior conditions. The restoration plan proposes maintaining the majority of the disturbed area as natural wetlands, with the exception of a small lawn expansion. The Commission finds that the plan would increase the biodiversity of the wetlands through the introduction of native species, including but not limited to ferns, asters, Swamp Azaleas and Witch Hazel, and the use of a New England Wetland Seed Mix. In reviewing the survey and violation, there was a discrepancy regarding the number of trees cut on the property. Mr. Lebow reported that 27 trees were removed, 6 of which were 8" dbh or greater. Ms. Kirby counted 10 significant sized trees on the survey, and Mr. Frangione of S.E. Minor & Co. believed 32 trees had been removed. The Commission concluded that additional trees should be added to the planting plan, last revision received during the October 6, 2004 public hearing, bringing the number of trees to be planted to 17.

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 Wetlands Plan by Garden Aesthetics Ltd., received during the October 6, 2004 Public Hearing shall be augmented to include a total of 17 trees. An updated planting plan and planting list shall be submitted for the record **no later than November 29, 2004**.
3. The Commission approves the application, as shown on the revised plans, entitled "Wetlands Plan, Lisa Phillips, 7 McLaren Road, Darien, CT" by Garden Aesthetics Ltd., undated, received during the October 6, 2004 Public Hearing of the Environmental Protection Commission, as modified by this approval.
4. The logs and woodchips shall be removed from the wetlands and 50' setback area as soon as possible. No mulch or woodchips shall be left or deposited within the restoration area.
5. The wetland restoration work activity shall be conducted by hand without the use of heavy machinery.
6. That a performance bond in the amount of \$3,000 shall be posted with the Planning and Zoning Office **no later than November 29, 2004** to ensure that the wetland enhancement and planting plan is completed according to the above mentioned approved plan by Garden Aesthetics Ltd., and the compliance with this approval. No work shall begin until the bond

is posted. The bond shall be held for two (2) growing seasons. Half of the amount shall be returned after the first growing season (no earlier than one year after the work is completed). The remaining amount shall be returned at the end of the second growing season to ensure that the new plantings are established. Any diseased or dead plantings must be replaced.

7. The permittee shall notify the Environmental Protection Commission immediately upon commencement of work and upon its completion.
8. 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 permit.
9. Hay bales shall be installed around any catch basin in the proximity of the work area. If the permittee is unable to obtain permission from neighboring property owners to install the hay bales on their respective properties, silt fence or hay bales shall be placed on the subject property adjacent to the catch basin. The bottom of the silt fence shall be buried a minimum of 6" into the soil and shall be backfilled with suitable material. The hay bales and/or silt fencing shall be installed **no later than November 29, 2004**. 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.
10. 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.
11. Sediment and erosion controls discussed above under Condition #8 shall be maintained throughout the project and shall only be removed when the disturbed areas have been adequately re-stabilized with suitable vegetation.
12. 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.
13. 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.
14. 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.

Mr. Hillman read the next agenda item:

Continuation of the Discussion for the Partial Bond Release for EPC-91-2002, Castlegate Corporation, 6 Point O' Woods Road South

There was a new submission on October 26, 2004, but nothing has been received since then. It was noted that there was a violation of the approved planting plan, as invasive species were used. Mr. Lewis suggested dismissing the request without prejudice. Ms. Cameron asked if the new owners were aware of the violation. The new property owner, Jennifer Sommer has installed playground equipment within 50 feet of the wetlands. Mr. Hillman stated that a violation should be written up. Mr. Kenyon suggested denying the request without prejudice, and not giving a partial bond release. Ms. Cameron seconded that motion. All voted in favor of that motion.

Continuation of the Review of Wetland Restoration Area for EPC-73-2002, Ian & Lisa Webb, 33 Knollwood Road, inspection to confirm that the plantings installed last year are thriving and the area still complies with restoration planting plan.

Mr. Hillman suggested that this item be held over until next month. All EPC members agreed.

EPC-107-2004, Robert Luzzi, 13 Oak Park Avenue, proposing installation of fencing and perform related site development activities within a regulated area. The property is located on the west side of Oak Park Avenue approximately 400 feet north of the intersection of West Avenue and Oak Park Avenue, shown on Assessor's Map #23 as Lot #16.

The Luzzis have a problem with neighborhood children skateboarding on their property and want to install 4 vinyl fences and gate that will be six feet in height. Mr. Kenyon would like to see pictures. Mr. Hillman asked for the identity of the contractor. Mr. Luzzi responded the Fence Factory would do the installation. The Luzzis were told that the lattice must be included in the measurement of the height of the fence and that maximum height is 6 feet. The Luzzis agreed to raise the fence off the ground by 6 inches to ensure flood waters can pass underneath the fence. Mr. Hillman made a motion to approve the application with a stipulation that the fence be no more than a total of six feet in height, with the fence raised six inches off of the ground within 20 feet of the watercourse. Ms. Kirby seconded that motion. The vote was 6-0 in favor.

Mr. Hillman then read the next agenda item:

EPC-103-2004, Kelly & Daniel Gasparino, 72 Nearwater Lane, proposing addition to dwelling and perform related site development activities within a regulated area. The property is located on the east side of Nearwater Lane at the northeast corner formed by the intersection of Nearwater Lane and the unimproved portion of Pasture Lane, shown on Assessor's Map #51 as Lot #75.

Architect Howard Patterson of Patterson Bigosinski Architects was present on behalf of the Gasparinos. The proposed addition will be further away from wetlands than the existing garage to be removed. The wetlands are on a neighboring property. The existing driveway is 40 feet wide and will be reduced. There will be new partial pavement, blacktop and vegetation. Mr. Kenyon

noted that there exist more wetlands in another area, on the Gasparino property close to Nearwater Lane. Mr. Patterson stated that no construction will take place in that area.

Ms. Cameron asked how close to wetlands the new garage will be constructed? Mr. Patterson said that it will be about 38 feet away with 120 square feet of impervious surface within the regulated area. Ms. Cameron asked about driveway change. Ms. Kirby said that she had visited the property. Mr. Hillman made a motion to approve the proposal. That motion was seconded by Ms. Miller. All EPC members voted in favor.

PUBLIC HEARING

At about 8:30pm, Mr. Hillman read the first public hearing item:

Amendment of Wetland Boundary Map for the Town of Darien, revised to incorporate site specific soil surveys approved by the Environmental Protection Commission. The Town amends its wetland boundary map annually to reflect new information regarding soils and wetland and watercourses collected throughout the year.

Mr. Ginsberg showed EPC members the revised wetlands and watercourses map that was drafted by Ms. Sarner. He referred to the legend, noting the 2002 and 2003 updates of wetlands designations due to the submission of detailed soil surveys. The Darien Country Club was the most significant change this year. He recommended that the EPC adopt the new proposed map with an effective date of Sunday November 7th in order to file with the map with the Town Clerk, and have copies available to the general public on Monday morning. He will also post it on the on Town web site.

In response to a question, Mr. Ginsberg explained that Ms. Sarner did not calculate the net increase or decrease of designated wetlands from the new and old maps. Mr. Lewis asked who is responsible for the drawing of the map and how are boundaries checked. Mr. Ginsberg responded that soils surveys are scanned in, tied to property boundary and overlaid. Ms. Cameron said that Ms. Sarner would be willing to demonstrate the GIS capabilities to Mr. Lewis. With the GIS, a homeowner can get print outs of parts of map reflecting their property. Mr. Keating noted that the draft map was referred to the State of Connecticut DEP, who did not submit a comment for the record. There being no other comments from the EPC members or the general public, Mr. Hillman made a motion to close the public hearing on this one matter. That motion was seconded by Ms. Cameron and unanimously approved.

Ms. Cameron then made a motion to adopt the new Town Inland Wetlands and Watercourses Map and have it become effective on November 7, 2004 at twelve noon. Mr. Hillman seconded that motion. All EPC members voted in favor.

At 8:45pm, Mr. Hillman then read the next public hearing item:

EPC-100-2004, David Mangini & Casey Elliot, 40 Goodwives River Road, proposing residential development, retaining walls, fill & regrading, stormwater galleries, primary septic system and reserve area, and plantings, and perform related site development activities within a regulated area. The property is located on the east side of Goodwives River Road approximately 1,200 feet southeast of the intersection of Goodwives River Road and Old King Highway South, shown on Tax Assessor's Map #63 as Lot #106-A.

Present were Casey Elliot, David Mangini, Dean Martin and Judy Slayback. The previous proposal to construct a new house with related site development activity within the regulated area was denied. The applicants have revised the plans to respond to the EPC's reasons for denying the previous application. There is a proposal to redesign the driveway eliminating the need for retaining walls, construct a smaller driveway, and reduce impervious surface area by 9%. The new plan calls for the enhancement of the two footbridges over the small watercourse, and constructing a smaller patio.

There was a discussion about the possibility of connecting to sanitary sewers or whether an on site septic system would be needed. Currently, the plan proposes a "living filter" type of on site septic system. Mr. Martin explained that the design is a State and Town approved septic system. Ms. Cameron questioned where the decision stands. Mr. Elliot said that they are not counting on being able to extend the sanitary sewer line to the site. A survey is in process to determine feasibility. They expect the results in December. Cost is a factor whether to continue. Ms. Cameron inquired as to other towns that allow the "living filter" type of private systems. Mr. Martin explained that in other Towns there have not been any recorded failures in 10 years. Mr. Lewis asked who has them. Mr. Martin responded that Westport, Greenwich and Norwalk do allow such systems. Ms. Cameron asked how long such systems have been used in those towns. Mr. Martin explained that the technology is fairly new, 10 years maybe. Ms. Cameron asked if it is different for restaurant than for residents. Ms. Cameron said that there is a need to speak with Matt Pawlick of the State Health Department before a decision is made. Mr. Hillman then made a motion to continue this matter at the next EPC meeting and after Ms. Cameron contacts Matt Pawlick.

Ms. Miller questioned the size of structure as previously proposed (and denied) and the current design. Mr. Elliot said that there will be changes in size. The new proposal is slightly smaller than the previous request.

Mr. Elliot said that the house location is on the east side of Goodwives River Road and that there is a small piece of land that is on the west side of the street and adjacent to Gorhams Pond. They propose to create a conservation easement to permanently protect the pond edge from further development, but they might need access through the easement to bring a canoe down to the water. He said that they will also move impervious surfaces away from wetlands.

Commission members commended the applicants on their cooperation. Mr. Hillman asked if there were any questions from the public – Ms. Louise Henderson, the owner of 42, 44 and 46 Goodwives River Road, said that a previous proposal to extend public sewers in Goodwives River Road was negated by residents on the road. She does not support the idea of extending the sewer now. Mr. Elliot explained that public sanitary sewer will not be done now and will be addressed on the 1st Monday in December by the Town Sewer Commission.

Mr. Fingar of 6 Wakeman Road claimed that an application can not be re-submitted unless the changes to the new application address the reasons for the denial of the original application. He referred to Article 11, paragraph 7 of the Regulations.

Mr. Hillman said that the EPC will continue this public hearing in December. Ms. Cameron expects to hear back from Mr. Pawlick by November 4th. In response to a question, Mr. Martin

said that there can be no garbage disposals with the living filter septic system. Mr. Hillman said that the EPC will continue the Public Hearing on this matter on December 1, 2004.

Resumption of General Meeting At 9:10pm, Mr. Hillman then read the next agenda item:

EPC-101-2004, Fred & Vicki Gatling, 385 Middlesex Road, requesting amendment of wetland map to allow a replacement septic system and related site development activities within a regulated area. The property is located on the west side of Middlesex Road approximately 500 feet south of the intersection of Hanson Road and Middlesex Road and is shown on Assessors Map #9 as Lot #87.

Both Mr. and Mrs. Gatling were present with their proposal to hook up to Town Sewer system. A Survey done April 7, 2004 shows that the closest connection would be 120 feet from the house. Ms. Cameron queried whether it would that affect any evergreens? The Gatlings said that there has been no removal of healthy trees, only those that were already dead. Ms. Miller noted that there are presently in the Gatlings back yard stumps in close proximity to the wetlands, and that is not acceptable. The Gatlings are aware of this, and plan to clean and re-vegetate the area. Mr. Kenyon inquired as to where is the town sewer. The Gatlings responded that the sewer goes to St. Thomas More Church, which would make it about 88 or 89 feet from the house to connect.

Mr. Hillman moved to accept the reports and proposal, seconded by Ms. Cameron. All voted in favor.

EPC-102-2004, Monica & Todd Billeter, 24 Hamilton Lane, proposing underground utilities, additions and alterations of dwelling, construction access, and perform related site development activities within a regulated area. The property is located on the south side of Hamilton Lane approximately 1,100 feet west of the intersection of Hamilton Lane and Brookside Road, shown on Assessor's Map 10 as Lot #26.

The applicants were represented by architect Howard Patterson. Mr. Hillman said that the entire property appears to be in wetlands. Howard Patterson said that a permit has been granted to add a second floor to the dwelling. This application is to bury electric and telephone lines between the street and the house. A brook exists on the north side of driveway, but no work will take place in that area. The proposal is to bury the lines from the house to the pole in the southeast corner of the property. Mr. Hillman asked how the work will be done? Will there be trees affected? He noted that the application does not show sediment and erosion controls. Ms. Cameron concurred. She asked how deep will they dig, and will they impact the existing hemlocks and pine trees. Mr. Patterson said that they are digging down about 18 inches and 75 feet away from the brook. Ms. Miller said that the Town Wetlands Map indicates the entire property as a wetlands area. Mr. Hillman said that there is a need to see plans on how work is to be done. He suggested tabling this item for the next meeting. Mr. Keating explained that it is important to understand what natural conditions exist – this is part of application process so everybody knows the underlying conditions.

EPC-104-2004, Thomas & Justine Ryan, 27 Hamilton Lane, requesting a permit for the previously constructed driveway extension and slight regrading of disturbed regulated area. The property is located at the southeast corner of the intersection formed by Hamilton Lane and Ironwood Lane, shown on Tax Assessor's Map #10 as Lot #38.

Mr. Ryan was present. An EPC permit was previously granted to extend the house within the 50 regulated area. While that work was being done, the driveway was also extended, but the approved permit had not authorized the driveway extension. The work was already done, but Mr. Ryan claimed that this was an oversight on his part, and that he needs an approval for the driveway extension. A small amount of topsoil is also needed on the side of the driveway away from the wetlands, but still within the regulated area. Mr. Keating said that the problems were discovered during an inspection and that Mr. Ryan has suspended all work on the site until he gets the matter resolved with the Commission. Pictures were produced and given to Mr. Keating. There are no trees to be disturbed.

Mr. Hillman made a motion to approve the driveway extension project “after the fact”, 2nd by Ms. Miller. All EPC members voted in favor. Mr. Keating said that there is top soil within 50 feet of area south of that area disturbed, may need to re-seed and clean up the area. Mr. Hillman made a motion to approve the top soiling and clean up of the disturbed area, 2nd by Ms. Miller. All EPC members voted in favor of that motion.

EPC-106-2004, Anne & John Geissinger, 11 Old Farm Road, proposing a swimming pool and perform related site development activities within a regulated area, and an amendment of the wetlands map. The property is located at the northeast corner formed by the intersection of Meadow Road and Old Farm Road, shown on Assessor’s Map #65 as Lots #24 & #25.

Mrs. Geissinger was present. She had received a report from the Soil Scientist noting that there are no wetlands or watercourses on the property. The Town map shows a watercourse through the middle of her site. Mr. Keating explained that a formal map amendment requires a public hearing, but the request for a permit to work in a regulated area does not. Ms. Cameron inquired whether or not the Town has jurisdiction over underground watercourses. Mr. Keating responded that it does not. Mr. Lewis moved to approve the request, 2nd by Mr. Hillman. All EPC members voted in favor of that motion. The change of the official map to reflect the more accurate information will be incorporated into the amends proposed at the end of the year.

EPC-105-2004, 2239 Post Road Associates, LLC, 5 Bishop’s Gate, proposing to install a hedgerow of plantings, remove fallen trees and debris, and perform related site development activities within a regulated area. The property is located on the northeast side of Bishop’s Gate approximately 400 north of the intersection of Boston Post Road and Bishop’s Gate and the site is shown on Tax Assessor’s Map #45 as Lot #32-2.

Mr. Hillman asked whether anybody on the Commission felt that the proposal could impact the wetlands and therefore might there be a need to have a public hearing on this request. Ms. Cameron said that she is hesitant to approve the project as submitted without any explanation. The existing stone wall is at the 50 feet from the wetlands line, why plant evergreen trees in the wooded area? Mr. Paul Siladi of 2239 Post Road Associates and his engineer, Richard Couch tried to submit supplemental plans to view. Mr. Hillman declined to get into a long discussion with revised plans, stating that this evening was not the proper time for that. On the need to conduct a public Hearing, Ms. Cameron and all the other EPC members concurred. A Public Hearing will be scheduled for December 1, 2004.

Discussion of Request for Confirmation of Wetland Restoration Planting, EPC-30-2004, Jeffrey & Karen Guice, 36 Arrowhead Way.

A field report was received. The Commission was dissatisfied with the actual site conditions and it is not appropriate to release the bond. Mr. Kenyon made a motion to NOT release the bond. That motion was seconded by Ms. Cameron. All EPC members voted in favor of the motion.

Requested Amendment of EPC-93-2003, Foster Kaali-Nagy, 59 Five Mile River Road, request to modify the approved plan to include the paving of the approved driveway, and perform related site development activities within a regulated area. The property is located on the north side of Five Mile River Road approximately 170 feet east of the intersection of Berry Lane and Five Mile River Road, shown on Assessor's Map #66 as Lot #10.

The request is to pave the existing driveway that is within 100 feet of wetlands (the Five Mile River), rather than installing grass pavers. Mr. Kaali-Nagy explained that the pitch of the driveway makes it difficult to use the Grass-crete pavers as originally proposed and approved. There was much discussion about the drainage discharge into the Five Mile River that would be created by using a solid surface. Mr. Kaali-Nagy then suggested using a cobble stone type of block (approximately 8" x 8") with 1 inch spaces between all blocks to allow for a pervious surface. He asked for permission to have an asphalt apron as the driveway intersects with the street. The asphalt would provide a safe and stable area that would not be damaged by the snow plows in the street. Mr. Keating explained that a stable, paved apron is typical, up to 10 into the site from the front property line. Mr. Hillman made a motion to approve the amendment of application EPC 93-2003 to allow a black top apron extending into the site no more than 15 feet from the edge of the paved portion of the street, and to deny the request regarding the change from Grass-crete type pavers to the solid blocks with spaces between. The motion was seconded by Ms. Miller. All voted in favor.

Review of restoration plan, EPC-7-2004, Able Construction on behalf of Robert Okun, 1 Timber Lane, proposing the replacement of tree cut within a regulated area.

No one was present to represent the applicant for this request. Mr. Hillman moved to hold this matter until the next meeting. The Commission members all agreed.

Request for Performance Bond Release, EPC-47-2004, Robert K. Biggart & William R. Ballentine, 10 Peterick Lane & 201 Middlesex Road, for a bond required to ensure the restoration of a disturbed regulated area.

Ms. Cameron recused herself from this matter, as she is related to Mr. Biggart. Mr. Hillman said that if Ms. Sarnier were present tonight, she would say that no one needs to show up for the EPC to decide this request because the pond dredging project was successfully completed. He then made a motion to grant the request to release the \$2500.00. performance bond. That motion was seconded by Mr. Kenyon. The vote was five in favor, none opposed, and Ms. Cameron abstained, as she had recused herself on this matter.

Requested Amendment of EPC-55-2002, CorLaw Investors, LLC, on behalf of Daphne Cochran & Michael Van Der Kieft, 76 Hanson Road (a.k.a. 75B Hanson Road), requesting interior modifications and increase in volume and floor area of approved residence. The property is located on the south side of Hanson Road approximately 500 feet west of the intersection of Linda Lane and Hanson Road, shown on Tax Assessor's Map #9 as Lot #106.

Peter Corbett was present on behalf of the applicants. Mr. Hillman asked what the changes are. Mr. Corbett responded the main walls going from dormers to straight walls. Mr. Keating explained that the original plan showed the size of the house at 5300+/- square feet, and asked how big the revised house would be? Mr. Corbett responded that it is about 5800 square feet of living space and an unfinished attic space. They are installing all heating and air conditioning equipment in the attic and need a walk up stair to the attic, not a hatchway or pull down stair.

Mr. Keating expressed concern that the structure will continue to grow and is already "shoehorned" into the site, with no back yard, only three feet from wetlands and with no play area. He said that the proposed attic has extra height and will likely become finished living space. Mr. Hillman said that the original house was reduced in size in order to be in compliance with flood regulations. Mr. Hillman made a motion to not act tonight, but rather to wait until the EPC members can review the entire history of decisions for this property. More internal information is needed, and he said that it should be re-tabled for December. Ms. Miller seconded the motion and the other EPC members concurred with the decision to place this on the December agenda.

Requested Amendment of EPC-1-2004, Jennifer and Dave Shea, 6 Fox Hill Lane, regarding pond dredging permit.

The applicants were represented by Richard Windels. Mr. Hillman believed that the proposed gabion weir is an improvement over the previously approved coffer dam. Mr. Hillman moved to approve the amendments. The motion was seconded by Mr. Kenyon. Ms. Miller and Ms. Cameron explained that they are willing to be a subcommittee on this matter and available if site decisions need to be made. All voted in favor of that motion.

Approval of Minutes: Meeting Minutes for October 20, 2004

Mr. Kenyon made a motion to approve the October 20, 2004 meeting minutes as written. That motion was seconded by Ms. Cameron, and unanimously approved.

Having no further business to attend to, the Commission adjourned the November 3, 2004 meeting at approximately 10:45 p.m.

Respectfully submitted,

Yvonne Jackson