

ENVIRONMENTAL PROTECTION COMMISSION  
REGULAR MEETING MINUTES

May 4, 2016

7:30 P.M.

Room 206, Town Hall

Mr. Joosten called the meeting to order at 7:30 P.M

Commission Members Present: Eric Joosten, Susan Mackenzie, Lucia Zachowski, Gunnar Edelstein, and Keith Kearney

Staff: Jacobson

Reporter: Syat

Channel 79 recorded.

Mr. Joosten called the following agenda item:

Notice of Encroachments within a Conservation Easement, Donald & Susan Young, 455 Mansfield Avenue

Mr. Jacobson said he has been in contact with Mr. Young about a possible easement swap. He said the Attorney for the builder of the adjacent property has retained Attorney Jackie Kaufman because of the sewer located in the easement. The matter will likely need to be referred to the Town Attorney.

Mr. Joosten called following agenda item.

EPC-02-2016, Everett Schenk, 19 Salisbury Road, proposing site development related to a new single family home within an upland review area. The site is shown on Assessor's Map #1 as Lot #101. (public hearing closed April 6).

The Commission discussed the draft approval letter and made amendments. Ms. Mackenzie moved to approve the application with the amendments. Mr. Kearney seconded the motion and it passed 5-0.

Mr. Joosten called the following public hearing.

EP-09-2016, Dr. Daniel Brenner, Superintendent, Darien Public Schools, 80 High School Lane, proposing to expand an artificial turf field (Stadium Field East) into an upland review area. The site is shown on Assessor's Map #9 as Lot#'s 80 &81. (Continued from April 6).

Joe Canas, P.E. represented the Applicant. He reviewed the results of the zinc testing from three locations. He said the levels are below the toxic levels in the UConn report. He said the additional treatment they are providing should further lower the levels.

Ms. Zachowski asked if there would be an increase over time. Mr. Canas said he could not anticipate any reason for that to happen.

Ms. Mackenzie moved to close the public hearing. Ms. Zachowski seconded the motion and it passed 5-0.

The Commission proceeded to deliberate on the application.

Mr. Kearney said he was satisfied that the Applicant demonstrated there will be no harm to the wetlands. He said the alternative to use both cork and tire to further reduce any potential impacts was agreed to by the Applicant.

Ms. Mackenzie moved to approve the application. Mr. Kearney seconded the motion and it passed 5-0.

Mr. Joosten called the following public hearing.

EPC-07-2016, Suzanne H. Okie, 10 Raiders Lane, proposing construction related to a four lot subdivision within upland review areas. The site is shown on Assessor's Map #70 as Lot #17, 18 & 19. (Continued from March 3).

Attorney James Murphy represented the Applicant. He introduced Chris Dubuque, P.E., Matt Popp, L.A., P.W.S., and Fred Mascia, P.E.

Mr. Murphy said they have addressed the storm drainage issues raised by the engineer. He said there are no wetland impacts. He said they have changed the lot lines to allow for no open space to be required. He said they are providing conservation easements that are slightly larger than the previous open space.

Matt Popp reviewed the wetland areas and the proposed regulated activities. He said they received a response regarding the Natural Diversity Data Base and he is confident that the two species described in the letter are not located on the subject property.

Mr. Popp said there were no changes made to the plans that would change his opinion that there will be no wetland impacts. He said he has made recommendations for mitigation measures.

Mr. Kearney asked about the one year limit on the DEEP letter. Mr. Popp said they would have to receive a new report of the species being present to issue a new letter.

Ms. Zachowski asked if he was confident the runoff will not impact the wetlands. Mr. Popp said yes.

Chris Dubuque reviewed the changes to the drainage and septic designs they made based on the comments from Todd Ritchie, P.E.

Ms. Zachowskwi asked about the close proximity of galleries to the property line. Mr. Murphy said that will be subject to review by P&Z as part of the Special Permit Application.

Mr. Kearney asked to confirm that there will not be construction that touches the wetlands. Mr. Murphy said that is correct.

Mr. Joosten opened the hearing to the public.

Attorney Robert Maslan represented George Ratcliff. He said the previous plan showed open space. He said the revised plans show clearing and grading adjacent to his client's property. He questioned what kind of application is being proposed and if it is a subdivision. He said the application must be submitted to wetlands before P&Z under section 8-26.e of the General Statutes and the EPC must make a report to P&Z before P&Z can act.. He said the proposed map is only a concept. He said a subdivision requires open space.

Mr. Maslan said something more substantial than boulders should be used to demarcate the natural areas.

Mr. Murphy said there is no regulation against filling adjacent to another property. He said Mr. Maslan's concerns are the aesthetics of Mr. Ratcliff's property. He said there is no wetland impact from the fill adjacent to the Ratcliff property.

Mr. Murphy provided his interpretation of the statutes and why he disagrees with Mr. Maslan's interpretation of the statutes and subdivision regulations. He said the EPC may render a decision on the regulated activities they are proposing. He said the Planning & Zoning Commission will interpret the subdivision regulations. If there are changes to the plan as a result of the P&Z process that changes the wetland permit activities they will have to come back to EPC.

Mr. Jacobson said the Commission would typically review the regulated activities and the decision to approve or deny constitutes their report.

Mr. Kearney asked if the fill Mr. Maslan referred to would impact the wetlands. Mr. Popp said he is not concerned that it would impact the wetlands.

Todd Ritchie said he was retained by the EPC to provide a peer review of the engineering. He said the Applicant has adequately addressed the concerns he raised in his review.

Mr. Joosten asked if he has looked at the area of fill described by Mr. Maslan. Mr. Ritchie said he did not specifically look at the septic systems but he did comment that the system on lot 2b may have been too close to ledge and that was why it changed.

Mr. Murphy reviewed the criteria for a decision in the statutes and explained how they have met the criteria for an approval. He said there are no wetland impacts and he requested the Commission close the public hearing and approve the application.

Ms. Mackenzie moved to close the public hearing. Mr. Edelstein seconded the motion and it passed 5-0.

The Commission proceeded to deliberate on the application.

Ms. Zachowski said her only concern is regarding Lot 2A and the encroachment on the upland review area. Mr. Jacobson said they are up against the zoning setback and cannot shift it further away.

Mr. Kearney said they provided testimony that there would be no adverse impacts and there was no testimony otherwise. He said the Applicant has made the effort to avoid impacts and has undergone peer review. He said the issues raised by Mr. Maslan would be for the Planning & Zoning Commission.

Ms. Mackenzie said she agrees with Mr. Kearney.

Mr. Edelstein said he agreed there was no testimony that there will be impacts.

Mr. Jacobson will draft an approval for June 1.

Ms. Mackenzie moved to adjourn. Ms. Zachowski seconded the motion and it passed 5-0.

The meeting adjourned at 9:50 p.m.

Respectfully submitted,

Richard Jacobson  
Environmental Protection Officer