

## STAFF REPORT

PLEASE REFER TO DRCC # WHEN SUBMITTING  
ADDITIONAL DOCUMENTS



**DRCC #:** 25-3442B

**DATE:** April 28, 2025

**PROJECT NAME:** 47 Swan Street -- Fence Installation

**Latest Submission Received:** April 24, 2025

**Applicant:**

Jay Fromm and Briana Durborow

47 Swan Street

Lambertville, NJ 08530

[briana.durborow@gmail.com](mailto:briana.durborow@gmail.com)

**Project Location:**

Road	Municipality	County	Block(s)	Lot(s)
47 Swan Street	Lambertville City	Hunterdon	1050	3

**Jurisdictional Determination:**

Zone A	Minor	Nongovernmental
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**Subject to Review for:**

Drainage	Visual	Traffic	Stream Corridors
X	X		X

**THIS STAFF REPORT IS ISSUED AS A GUIDE TO APPLICANTS IN COMPLYING WITH DRCC REGULATIONS. IT IS NOT AN APPROVAL. NO CONSTRUCTION SHALL BEGIN UNTIL A CERTIFICATE OF APPROVAL HAS BEEN ISSUED.**

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[www.nj.gov/dep/drcc/](http://www.nj.gov/dep/drcc/)

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**Documents Received:** Property Survey (1 sheet) dated March 6, 2025, prepared by Leeper Land Group, LLC, with notations. Fence Exhibit (1 page) prepared by applicant.

Staff comments continued below.

**The application is complete and shall be presented to the Commission for their action with a staff recommendation of approval at the May 21, 2025, meeting based upon the following analysis:**

**Existing Conditions:** The project area is a 2,494.4 square-foot (0.06 acre) lot located on the southerly side of Swan Street in the City of Lambertville, Hunterdon County, approximately 600 feet east of the Delaware and Raritan Canal and within Commission Review Zone A. In the existing condition, the site consists of a two- and one-half story semi-detached residential dwelling constructed in 2017, along with an associated pervious pavement driveway, areas of maintained lawn, and perimeter fencing that separates the project site lot from the attached townhouse lot to the east. Impervious surface coverage in the existing condition totals 2,641 square feet (acre).

The existing residence was constructed pursuant to a Commission certificate of approval issued in 2017 for the demolition of a garage and the construction of two townhouses on former lots 2, 3, 4 and 5, respectively (DRCC #160-4332A). A prior application proposing a substantially similar townhouse project was also approved by the Commission in 2008, but the certificate of approval for that project expired in 2011, necessitating the subsequent application (See DRCC #06-4332).



**Proposed Project:** The applicant proposes to install 75 linear feet of horizontal slat wooden privacy fence supported by 10 posts measuring 4-inches by 4-inches. The fence would be 6.0 feet in height, with the exception of 10 linear feet of 4.0-foot-high fence with a gate located at the southern end of the driveway to access the backyard. The project

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would result in 1.2 square feet of new impervious surface coverage and would disturb a like amount of land.

**Stream Corridor:** Swan Creek is located approximately 160 feet to the north of the property. The Commission defines stream corridor to mean any watercourse that flows into the Delaware and Raritan Canal State Park, its tributaries, the 100-year floodplain associated with the watercourse and its tributaries, and all of the land within a 100-foot buffer adjacent to the 100-year flood line associated with the watercourses and their tributaries. The entire property is located within the defined Commission stream corridor area.

The project is proposing an intrusion within the defined Commission stream corridor with de minimis disturbance attributable to the proposed fence and posts. The proposed activities are defined as prohibited uses in accordance with NJAC 7:45-9.3(a).

The applicant seeks a waiver of strict adherence from the stream corridor impact review standards pursuant to the criteria at N.J.A.C. 7:45-12.4(a)1, which provides that the Commission may waive a project from the standards if it determines that the project would not have an adverse impact upon the stream corridor's ability to function as a buffer for the watercourse's ecological health and as a natural area.

Commission staff observes that the construction of the existing townhouses was granted a waiver of strict adherence from the stream corridor impact review standards when the Commission considered project DRCC #16-3442A, since that project only resulted in a net increase in impervious surface coverage of approximately 1,188 square feet when compared to the existing condition which existed at that time. The staff report for DRCC #16-3442A noted that the townhouse project would not impact the function of the buffer because the project site was not contiguous with Swan Creek, being separated from the watercourse by a row of homes on the northerly side of Swan Street and by Swan Street itself.

Commission staff observes that flooding of Swan Creek is a serious concern, and the fact that the project site is located within an Urban canal environment does not by itself mean a stream corridor does not exist. However, given the non-contiguous location of the project site to Swan Creek and the de minimis amount of impervious surface created by the project, Commission staff concludes that, like the 2016 townhouse project, the current fence project would not adversely affect the stream corridor's ability to function as a buffer, and that the project meets the criteria for a waiver of strict adherence pursuant to the criteria at N.J.A.C. 7:45-12.4(a)1.

**Stormwater Quantity:** In the proposed condition, all areas disturbed as a result of the fencing would either be restored to the original condition, or in the case of the impervious surface attributable to the fence posts, would result in a de minimis increase in stormwater runoff. This runoff would be offset by the porous pavement/drywell system installed on the site pursuant to project DRCC #16-3442A. As a result, the fence project would not increase the rate or volume of stormwater runoff, reduce existing groundwater recharge volumes, or adversely impact water quality. Therefore, by engineering judgment, the

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project has been designed in accordance with the specific runoff quantity standards at N.J.A.C. 7:45-8.6(a).

**Water Quality:** The Commission requires that all proposed and reconstructed impervious surfaces intended to carry vehicle traffic shall meet water quality standards in accordance with Commission regulations at N.J.A.C. 7:45-8.7. The applicant does not propose any new or reconstructed impervious surface coverage that would support motor vehicle traffic. As a result, the specific water quality standards at N.J.A.C. 7:45-8.7 are inapplicable to the proposed project.

**Groundwater Recharge:** The Commission's regulations require that stormwater management measures maintain 100% of the average annual pre-construction groundwater recharge volume for the site, or that any increase of stormwater runoff volume from pre-construction to post-construction for the two-year storm is infiltrated. The proposed project would result in a de minimis increase of stormwater runoff volume during a two-year storm event. Therefore, the proposed groundwater recharge measures will address the specific recharge standards of N.J.A.C. 7:45-8.5 for this project.

**Non-Structural Methods:** By the exercise of engineering judgment, Commission staff determines that the applicant has provided sufficient non-structural stormwater management strategies into the project site design, since the project will maintain drainage patterns and maintain the volume of stormwater generated from the site. Therefore, the project has been designed in accordance with the specific non-structural stormwater management strategy standards at N.J.A.C. 7:45-8.4.

**Stormwater Management Maintenance Plan:** The applicant does not propose any new structural best management practice to provide compliance with any standard listed within the Commission stormwater runoff and water quality impact review standards at N.J.A.C. 7:45-8. Therefore, the project is not subject to the specific stormwater management maintenance requirements at N.J.A.C. 7:45-8.8. Commission staff observes that a conservation and maintenance agreement has already been executed for the porous pavement/drywell system installed on the site pursuant to project DRCC #16-433A.

**Visual, Historic & Natural Quality Impact:** N.J.A.C. 7:45-10.2(a) directs that the Commission shall review all projects in Zone A to determine if the project is in accord with the goals for the Delaware and Raritan Canal State Park as defined in the Delaware and Raritan Canal State Park Master Plan (Master Plan). The visual, historic, and natural quality impact review is intended to assure that development within Zone A is not harmful to the character of the environmental types identified in the master plan as comprising the park.

The proposed project is located in an "Urban" canal environment as described in the Master Plan. The Urban canal environment is characterized at N.J.A.C. 7:45-10.2(a) as "enclosure of the canal by dense development." The Master Plan at Pages 13-14 notes that the canal runs along the western edge of Lambertville in proximity to former Belvidere and Delaware railroad tracks. The Master Plan further notes that both the park and multiuse trail are narrow through much of the city in this urban setting. The 1989 plan called for completion

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of the park multiuse trail and the planting of trees and shrubs for definition and privacy, while also supporting the goal of establishing a canal boat ride at Lambertville Lock, as well as rebuilding the outlet lock to the Delaware River to restore the cable ferry link with New Hope, Pennsylvania. Nothing in the proposed fence installation project would be inconsistent with these goals.

The provisions of N.J.A.C. 7:45-10.3(a), which discourage major projects in certain canal environments of Commission Review Zone A, are inapplicable to the proposed project, which is a minor project. The provisions of N.J.A.C. 7:45-10.3(b), which authorize the Commission to require specific compensatory measures for minor projects in certain portions of Commission Review Zone A, are also inapplicable to the proposed project, which is located in an Urban canal environment.

N.J.A.C. 7:45-10.4(a) directs that projects in Commission Review Zone A shall be set back from the Delaware and Raritan Canal State Park sufficiently far so that the winter visual and natural quality of the park are not adversely affected. The proposed fence would be located approximately 600 feet from the Delaware and Raritan Canal State Park and is not visible from the park due to several intervening structures. In the Urban canal environment, there are no minimum setbacks except as may be prescribed by municipal ordinances. Therefore, the project is in compliance with this requirement.

N.J.A.C. 7:45-10.4(b) directs that projects in Commission Review Zone A shall maintain a reasonable height and scale relationship to nearby structures or vegetation. In the Urban canal environment, the height of structures may vary according to the height of existing structures that have a visual relationship to the proposed structure. The proposed fence would be a maximum of 6.0 feet in height. Therefore, the project is in compliance with this requirement.

The provisions of N.J.A.C. 7:45-10.4(c) direct that for major and minor projects in Commission Review Zone A, the exterior appearances of a project shall be in keeping with the character of the Delaware and Raritan Canal State Park's individual environments. Specifically, colors used shall harmonize with the man-made or natural surroundings of the project and shall be typical of colors found in the park environment, and building materials and textures shall harmonize with the surrounding man-made and natural materials.

The applicant's submission indicates that the proposed fence would be of a horizontal slat design and composed of wood. Commission staff notes that the proposed materials and colors are consistent with those approved for prior projects in the Swan Street neighborhood and are typical of the built environment of the City of Lambertville. Therefore, the project is in compliance with this requirement.

The provisions of N.J.A.C. 7:45-10.4(d)1, which direct that, for projects in Commission Review Zone A, electric, telephone, cable television, and other such lines and equipment shall be underground or otherwise not visible from the Delaware and Raritan Canal State Park, are inapplicable to the proposed project.

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The provisions of N.J.A.C. 7:45-10.4(d)2, which direct that any exposed storage areas, out-buildings, exposed machinery service areas, parking lots, loading areas, utility buildings, and similar ancillary areas and structures shall either be completely concealed from view from the Delaware and Raritan Canal State Park or designed to minimize their visual impact on the park, are inapplicable to the proposed project.

The provisions of N.J.A.C. 7:45-10.4(d)3 and 4, respectively, which regulate the placement and dimensions of commercial signage, are inapplicable to the proposed project, which proposes no signage.

The provisions of N.J.A.C. 7:45-10.4(d)5, which direct that wherever possible, natural terrains, soils, stones, and vegetation should be preserved and that new vegetation, stones, and soils should be native to the environment in which they are placed, are inapplicable to the proposed project, which proposes no landscaping.

N.J.A.C. 7:45-10.6(d)6 directs that projects that are located in any officially designated Federal, State or local historic district or site shall be assessed for their impact upon that district or site. Recommendations to avoid, minimize, and/or mitigate the impacts of a project on a listed property shall be made in consultation with the New Jersey Historic Preservation Office (SHPO) and based upon the United States Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings.

The project site is located approximately 300 feet beyond the boundaries of the Delaware and Raritan Canal Historic District, which encompasses the canal bed and all structures within 300 feet of the centerline of the canal. The project is located within the boundaries of the Lambertville Historic District, a 198-acre area between the Delaware River and N.J. State Highway Route No. 29 and N.J. State Highway Route No. 179, and from north of Cherry Lane to south of Weeden Street.

Commission staff observes that while the project is located within a historic district, the proposed fence is an ancillary structure to a residential dwelling that was constructed in 2017 and is non-contributing to that district. Commission staff also observes that there are several residences located along Swan Street and within the boundaries of the Lambertville Historic District with perimeter fences, 24 of which have been approved by the Commission as minor projects or by means of general permits. Therefore, Commission staff determines that the consultation with the SHPO is not warranted in this case, and that the project is in compliance with this requirement.

**Staff Recommendation:** Staff recommends approval.

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Sincerely,

A handwritten signature in black ink, appearing to read "John Hutchison". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

John Hutchison  
Executive Director

c. City of Lambertville Construction Office  
Hunterdon County Planning Board