

**ENVIRONMENTAL PROTECTION BOARD
CITY OF STAMFORD
MINUTES OF THE MAY 23, 2019
SPECIAL MEETING**

BOARD MEMBERS PRESENT:

Gary H. Stone, Chairman
Dr. Leigh Shemitz, Member
Ashley A. Ley, Member
Laura Tessier, Alternate Member
Emily Gordon, Alternate Member

MEMBERS NOT PRESENT:

Louis P. Levine, Member

STAFF PRESENT:

Richard Talamelli, Executive Director/Environmental Planner
Pam Fausty, Environmental Analyst

The meeting was called to order by Mr. Stone at 7:30 PM.

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Minutes of the EPB Regular Meeting of April 18, 2019:

Members present and eligible to vote were Mr. Stone, Dr. Shemitz, Ms. Tessier, and Ms. Gordon. No corrections were proposed/recommended.

Upon a motion by Dr. Shemitz, and seconded by Ms. Tessier, the Board voted to **APPROVE** the Minutes of the April 18, 2019 Regular Meeting as presented.

In Favor: Stone, Shemitz, Tessier and Gordon.
Opposed: None.
Abstaining: None.
Not Voting: Ley.

Possible Executive Session: Discussion of Attorney/Client Privileged Communication Re: 2 Scofieldtown Road:

Upon a motion by Ms. Gordon, and seconded by Ms. Ley, the Board voted to **ENTER INTO EXECUTIVE SESSION** for the purpose of discussing an attorney/client privileged communication regarding EPB Permit Application #1831, 2 Scofieldtown Road, Lots A1/A2, Redniss and Mead, Inc., for Bethany Assembly.

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In Favor: Stone, Shemitz, Ley, Tessier and Gordon.
Opposed: None.
Abstaining: None.
Not Voting: None.

The Board entered into executive session at approximately 7:34 PM. All members of the Board, the EPB Director, and Assistant Corporation Counsel, Dana Lee attended the session. Recording devices were disabled.

At approximately 8:50 PM, the executive session was concluded, and the Chair resumed the Special Meeting.

Mr. Stone then made a statement concerning the executive session as it pertained to EPB Permit Application #1831, noting that based on the correspondence received from the applicant's attorney and consultation with the City's Attorney, the Board feels that it needs to investigate further the activities in the upland areas that will or might have an impact on the wetlands and watercourses. He noted that the agency would give EPB Application #1831 further consideration as it is listed on the agenda.

APPLICATIONS AND PERMITS:

Acceptances/Extensions/Withdrawals:

#1907 – 736 Den Road – Parcel B – Fairfield County Engineering, LLC for D. Broggi: To construct a wood deck, drainage and related features in a conservation easement and proximate to wetlands situated in the non-drinking water supply watershed of Haviland Brook. The property is situated along the north side of Den Road, approximately 700 feet west of Long Ridge Road, and is identified as Parcel B, Account 003-6993, Card N--007, Map 57, Block 394, Zone RA-1, and \pm 1.814 Acres.

Reference is made to and EPB Staff Memo, dated May 17, 2019.

In Attendance: None

Discussion: Mr. Stone acknowledged the receipt of correspondence from Wayne D'Avanzo, P.E., dated May 10, 2019 granting the Board an extension of the statutory deadline for decision on EPB Permit Application Nos. 1907 for sixty-five (65) days. Accordingly, a decision shall be rendered by July 29, 2019.

Motion/Vote: None

#1909 – 237 West Lane – Lot 33 – Fairfield County Engineers for D. Pearl and A. Pearl: To fill in a swimming pool, fill and grade to expand lawn areas, construct a retaining wall and patio proximate to wetlands on property situated within the non-drinking water supply watershed of Toilsome Brook. The site lies along the south side of West Lane, approximately 640 feet west of the intersection with East Lane and is identified as Lot 33, List 001-2617, Card N-013, Zone R-20, Map 104, Block 216

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and 0.9169 Acres.

Reference is made to EPB Staff Memo, dated May 10, 2019.

In Attendance: None

Discussion: Mr. Stone acknowledged the receipt of the minimum information necessary to accept EPB Permit Application No. 1909.

Motion/Vote: Upon a motion by Ms. Ley, and seconded by Ms. Tessier, the Board voted to **ACCEPT** EPB Permit Application No. 1909.

In Favor: Stone, Shemitz, Ley, Tessier, and Gordon.
Opposed: None.
Abstaining: None.
Not Voting: None.

Action Items:

#1831 - 2 Scofieldtown Road - Lots A1/A2 - Redniss and Mead, Inc. for Bethany Assembly: To construct a new senior living facility with associated parking, walkways, walls, and other related improvements proximate to identified wetlands situated in the non-drinking water supply watershed of Poorhouse Brook/Rippowam River. The property is situated along the west side of Scofieldtown Road, just north of its intersection with High Ridge Road, and is identified as Lot A1/A2, Account No. 000-6831, Card W-002, Map 32, Block 377, Zone RA-1, and ±3.43 Acres.

Reference is made to an EPB Staff Agenda Summary Report, dated April 12, 2019 along with all submittals received at and immediately following the April 18, 2019 meeting, and made a part as part of the EPB file.

In Attendance: Richard Redniss, Redniss and Mead
Bret Holzwarth, P.E., Redniss and Mead
William Kenny, William Kenny Associates
Megan Miles, Esq., Carmody, Torrence, Sandak and Hennessey
Gail Okun, North Stamford Association
Tom Lombardo, North Stamford Association

Discussion: Mr. Stone briefly addressed the participants, noting that, given the extensive testimony considered at last month's meeting, interested parties would be welcome to provide new or additional information/comments that are pertinent to the business of the Environmental Protection Board. Following the receipt of public comments, Board Members will have an opportunity to express their views on this application.

Mr. Thomas Lombardo, President of the North Stamford Association came forward and read a prepared statement concerning sewage disposal, the extensiveness of the land disturbance, and the association's purported support for the project. There being no other interested parties, Board

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members, as requested by the Chair, expressed their views on this application.

Ms. Ley indicated that a full examination of prudent and feasible alternatives having less of a potential impact on the regulated areas has yet to be provided. Such alternatives may include a reduction of the building's footprint, relocation of structures, and adjustments to the drainage areas to maintain the present level of flow to the wetland areas.

Ms. Tessier, reconfirmed concerns relating to the exploration of alternatives. She noted that she would like to see an alternative that respects the natural drainage patterns to the wetland and eliminates those portions of the retaining wall that intrudes along that 25 ft. setback, and also removes the element of tree removal within that setback area. She voiced concern that extensive grading and the steep slopes on the site and the provisions for considerable alteration of surface and subsurface flows to the wetland which may affect the hydro-period, the intensity of flow, and the general regime that has sustained that wetland for some time in the past. In addition, she remained concerned about the element of tree removal because it is a small wetland where the trees are well established, they are significant in caliper in the area of the setback, and would not be adequately remediated by removal and replacement with the smaller caliper trees even though that's part of the landscape plan. Finally, she requested submission of an assessment in relation to the current findings in the scientific literature, particularly peer reviewed papers that discusses how it is sufficient to eliminate virtually all but 10 to 15 ft. of setback and buffer for a wetland without causing any undue impact on the system.

Dr. Shemitz shared similar views on the alternative discussion. She went on to state that the discussion of sanitary sewer alternative may not be within the purview of this Board.

Ms. Gordon offered no additional comments.

(Note: A verbatim transcript of these comments was prepared for both the record and applicant.)

Mr. Stone concluded discussion on this application for the evening.

Motion/Vote: None

#1901 – 47 Swampscott Road - Lot 29 – A. Geca: To maintain a chicken coop/pen, sheds and other related features situated in and proximate to wetlands and watercourses situated in the non-drinking water supply watershed of Ayres Brook. The property lies along the south side of Swampscott Road, approximately 350 feet west of High Ridge Road, and is identified as Lot 29, Account 000-3054, Card S-003, Map 83, Lock 359, Zone R-10, and ± 0.37 Acres.

Reference is made to EPB Staff Agenda Summary Report, dated May 16, 2019.

In Attendance: Aleksandra Moch, LA
Alexandra Geca
Rick Bloom

Discussion: Ms. Fausty summarized the matter for the Board. She noted that the Agenda

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Summary Report was prepared by Leigh DeMarco, Environmental Analyst. Ms. Fausty reported that the applicant seeks the Board's permission to maintain a chicken coop/pen, sheds/platforms and other related facilities in and proximate to the wetlands and watercourses.

The property, which lies along the south side of Swampscott Road, approximately 300 feet west of High Ridge Road, currently supports a single family dwelling, garage, driveway, patio, walkways, sheds, chicken coop and pen, and other related features. The site is characterized by the presence of gently sloping developed uplands, an intermittent watercourse, and both wooded and lawned wetland areas. The regulated areas occupy the southern 1/3 of the parcel. Compliance inspections over the last year resulted in a determination that the chicken coop, three (3) sheds, and a patio were placed in wetlands without prior authorizations. It was noted that one of the sheds and the patio were removed in fall/winter 2018. This application was submitted to allow owner to maintain all or portions of the remaining unpermitted encroachments.

Ms. Fausty stated that Ms. DeMarco, in her report, identifies and addresses each of the remaining encroachments.

Ms. Fausty noted that the applicant seeks to maintain the chicken coop and pen in its current location, in wetlands, and within ten (10) feet of the intermittent watercourse. The coop, which is partially roofed, occupies an area totaling approximately 295 square feet. It was reported that chicken waste is regularly removed from the coop/pen and disposed of in one of two covered composters located outside of wetlands and the adjoining setbacks. EPB Staff determined that the coop/pen and related features may qualify for the "Agricultural Exemption" per the statute and may be allowed to remain. Staff's determination was bolstered by the applicant's commitment to continue to effectively manage and dispose of the chicken waste under the terms of their management plan. The applicant also proposed to replace an existing 348 square foot, roofed, firewood storage shed with a 150 square foot, un-roofed firewood storage platform in wetlands, and within four (4) feet of the intermittent watercourse. Although adjustments to the size/design of the platform were proposed during the review process and native planting was offered to restore the adjoining space, Staff determined not to offer support for the plan, and recommended disapproval of this element based upon an incomplete examination of alternative locations and designs. Next, the applicant seeks permission to maintain an existing 105 square foot shed installed in wetlands and within eight (8) feet of the watercourse. Although recently renovated, the applicant reported that the shed (no foundation) was built by a prior homeowner, and predates environmental regulations. Like the wood shed/platform, Staff determined not to offer support for the plan given the inadequate examination of alternative locations outside of regulated areas or alternatives having less of a potential impacts. Although native planting was proposed to restore the spaces adjoining the shed, Staff did not offer support for the shed plan, and recommended disapproval. It was further reported that Staff supported the recommended debris removal activities, an expanded planting plan for those portions of the regulated areas impacted by the sheds/platforms, and the removal/restoration of all newly paved driveway/parking areas per the direction of the Engineering Bureau, and as reflected on the submitted plans.

Alexandra Geca apologized for the encroachments, but indicated that she was unaware of the presence of regulated areas and the necessity of special permitting when the site was purchased several years ago. She requested that the Board endorse the application as currently proposed considering the remedies applied to date, and the impact any further removals/relocations may have

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upon their family and their living space.

Alexandra Moch reconfirmed the application for the Board, again summarizing both the removals/remedies applied to date, and detailing of the modified proposal. She stated that the chicken pen and coop clearly qualifies for the “agricultural exemption” and that any potential impacts have been minimized by the owner’s efforts to manage and properly dispose of waste. The wood storage shed shall be reduced in size, the roof removed, and elevated off the ground to reduce both direct wetland impacts and any potential drainage effects. She further noted that the “wood storage platform” would improve habitat values and provide a valuable barrier to the more naturally vegetated wetland areas to the south. The storage shed, although improved by this owner, reportedly existed on the parcel for many years. Greater disturbance and impact is expected if the Board requires the shed to be demolished or relocated. She touted the value of the planting restoration, and noted that further modifications of these elements would impact neighbors, and would significantly diminish the necessary living/playing spaces on the parcel.

Rick Bloom offered support for the application and the activities proposed. He stated that the applicants “take care” of the property and, based upon his own observations, that the sheds, coops and other related features have not significantly impacted drainage or other wetland functions. Currently, the improvements are well screened from the street, and alternatives that result in relocation to the front or side planes of the dwelling would not be favored.

Dr. Shemitz, Ms. Gordon and Ms. Tessier, although acknowledging the owner’s efforts to address the unpermitted encroachments, remained concerned by the potential impacts the proposed structures/features, particularly the wood storage platform and shed, may have on the wetland’s ability to drain, support native vegetation, and sustain other pertinent functions. Each noted that further that alternatives may be available to reduce impacts. Ms. Ley, although calling for the removal and relocation of the wood platform, favored the applicant’s proposal to maintain the “existing” storage shed in its current location. Extensive discussion ensued between Board Members and Staff.

Motion/Vote: Upon a motion by Ms. Ley, and seconded by Ms. Tessier, the Board voted to **APPROVE** EPB Permit Application No. 1901 with the conditions outlined in the EPB Staff Agenda Summary Report, dated May 16, 2019 modified to omit Condition No. 3, therefore allowing the existing shed to remain.

In Favor: Stone, Shemitz, Ley, Tessier, and Gordon.
Opposed: None.
Abstaining: None.
Not Voting: None.

#1903 – Wedgemere Road, White Oak Lane, Emerald Lane and Eden Road – City of Stamford,

WPCA - Sanitary Sewer Extension: To construct sanitary sewers, drainage, and other related improvements in and within close proximity to wetlands, watercourses and conservation easement areas situated in the non-drinking water supply watershed of Springdale Brook. The project area lies east of Newfield Avenue, in an area generally bounded by Wedgemere Road to the north, Emerald Lane to the south, and Eden Road to the east.

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Reference is made to EPB Staff Agenda Summary Report, dated May 16, 2019.

In Attendance: Prakash Chakhavarti, P.E., City of Stamford, Water Pollution Control Authority

Discussion: Ms. Fausty summarized the application for the Board. She stated that the applicant seeks the Board's permission to install sanitary sewers, drainage and other related improvements on both publically and private held properties situated in the non-drinking water supply watersheds of Springdale Brook. The purpose of the project is to improve sanitation, alleviate known drainage issues, and correct certain deficiencies in and along public roadways.

Ms. Fausty reported that the project area lies east of Newfield Avenue, in an area generally bounded by Wedgemere Road to the north, Emerald Lane to the south, and Eden Road to the east. Although much of the project will be confined to the existing paved road surfaces/shoulders, portions of the project will affect less developed space in and/or proximate to mapped wetlands, watercourses and designated conservation easement areas.

Ms. Fausty stated that the submitted development plans and reports address Staff concerns relating to resource impact, drainage, erosion control, water quality and mitigation. Grades and disturbance limits have been clearly defined, erosion and construction controls have been provided, and effective dewatering/diversion measures have been developed for the five (5) minor stream crossings. The Stamford Engineering Bureau has endorsed the project. It was noted that in wetland/watercourses, provisions have been made for the restoration of grades, maintenance of soil profiles, use of water stops, and the installation of planting to stabilize the soils and restore wetland/watercourse functions. Ms. Fausty further confirmed that the planting plan is appropriate for the circumstances of this application. Note that the applicant reported that approximately 2,754 square feet of wetlands, 135 linear feet of watercourse, 15,116 square feet of wetland/watercourse setback and 8,921 square feet of a conservation easement will be temporarily/permanently affected by the project.

Ms. Ley noted that the project, if carefully implemented, will have a positive impact on the quality of surface and ground waters in the watershed.

Mr. Chakhavarti acknowledged the receipt of the agenda summary report and offered no objection to any of the conclusions or recommended conditions of approval. He reported that since 2007, the City had considered a number of iterations to reduce both costs and physical impacts, and further touted the positive benefits that will be experienced by the fifty-six (56) home owners affected by the project.

Motion/Vote: Upon a motion by Ms. Gordon, and seconded by Ms. Ley, the Board voted to **APPROVE** EPB Permit Application No. 1903 with the conditions outlined in the EPB Staff Agenda Summary Report, dated May 16, 2019.

In Favor: Stone, Shemitz, Ley, Tessier, and Gordon.
Opposed: None.
Abstaining: None.
Not Voting: None.

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Site Plan Reviews: None.

Subdivision Reviews: None.

Enforcement – Status Reports & Show Cause Hearings: None.

Other Business:

#1120 – 371 Taconic Road – Lot 25 – T. Milone, P.E., Redniss and Mead, Inc. for V. and E.

Loganchuk: To install a new fence, stone wall and other related features in and/or proximate to wetlands situated in the drinking water supply watershed of the Mianus River. The subject property lies along the west side of Taconic Road, approximately 2300 feet north of Farms Road, and is identified as Lot 25, List 002-2397, Card W-3, Block 400, Zone RA-3, and ± 4.101 Acres (± 0.487 Acres within the City of Stamford).

Reference is made to an EPB Staff Memo, dated May 21, 2019.

In Attendance: None

Discussion: Mr. Stone stated that Staff report confirms that there were no reported violations on this property, that the permit was legally issued, and that conditions have not changed as to warrant a reevaluation. It was recommended that the Board approve the proposed transfer of permit and extension request as proposed. The permit shall remain in full force and effect until September 23, 2020.

Motion/Vote: Upon a motion by Ms. Ley, and seconded by Ms. Tessier, the Board voted to **APPROVE** the extension of EPB Permit Application No. 1120 for a period of one (1) year. Accordingly, the permit shall remain in full force and effect until September 23, 2020.

In Favor: Stone, Shemitz, Ley, Tessier, and Gordon.
Opposed: None.
Abstaining: None.
Not Voting: None.

Discussion concerning the possible creation of a Board subcommittee to review and recommend revisions/updates to the “Inland Wetlands and Watercourse Regulations of the City of Stamford.”

Mr. Talamelli reported that several Board Members had recently expressed interest in revising the “Inland Wetland Regulations of the City of Stamford” to incorporate amendments enacted by the State Legislature since last reviewed, clarify and enhance process, and re-evaluate the policies and procedures necessary to effectively regulated/manage the City’s inland wetlands and watercourses. Mr. Talamelli noted that he had briefly consulted with Law Department Staff, and it was recommended that, in lieu of the formal creation of a subcommittee (a group that would be subject to the notice and reporting requirements of FOI), that individual areas of interest should be researched by Board Members/Staff, and that any discussions be held in a public setting at a regularly scheduled or special meeting of the Board. Mr. Talamelli stated that the initial step in the process may be to

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secure copies of the most recent “draft” regulations authored by DEEP, updated regulations from a cross section of other Connecticut communities, and correspondence from Board Members outlining specific questions/areas of interest.

ADJOURN:

Adjourn the Special Meeting of May 23, 2019:

Upon a motion by Ms. Gordon, and seconded by Ms. Tessier, the Board voted to **ADJOURN** the Special Meeting of May 23, 2019.

In Favor: Stone, Shemitz, Ley, Tessier, and Gordon.
Opposed: None.
Abstaining: None.
Not Voting: None.

Meeting adjourned at 10:00 PM.

Gary H. Stone, Chairman
Environmental Protection Board