

MEMO TO: Christa McNamara, Town Clerk
Office of the Town Clerk, Darien

FROM: Richard H. Talamelli, Environmental Protection Officer
Environmental Protection Commission 

SUBJECT: Environmental Protection Commission
Minutes for EPC Meeting

DATE: February 2, 2023

Please find a copy of the final, signed Minutes for the EPC's Meeting of January 4, 2023.

Thank you.

Attachment

**ENVIRONMENTAL PROTECTION COMMISSION (EPC)
TOWN OF DARIEN, CONNECTICUT
MEETING MINUTES
REGULAR MEETING OF JANUARY 4, 2023**

MEMBERS PRESENT:

Eric Joosten, Chairman
James Millard, Vice Chairman
William Wright, Member
Michael Ervin, Member
Peter McGuinness, Member
Carolyn Bayne, Member
Lauren Rossi, Member

MEMBERS NOT PRESENT:

None

STAFF PRESENT:

Richard Talamelli, Environmental Protection Officer

The "in-person" meeting was held in Darien Town Hall (Rooms 206 and 213), 2 Renshaw Road, Darien, Connecticut. The meeting was video/audio recorded.

The meeting was called to order by Mr. Joosten at 7:00 PM in Room 206.

EXECUTIVE SESSION:

Executive Session with Town Counsel to discuss pending litigation and possible settlement of 175 Brookside, LLC. v. Environmental Protection Commission:

Reference is made to correspondence from Robert Maslan, Esq., dated December 8, 2022.

In Attendance: Wayne Fox, Esq., Curtis, Brinckerhoff and Barrett, P.C.
Patricia Gaug, Esq., Curtis, Brinckerhoff and Barrett, P.C.

Discussion: Mr. Joosten called for a motion to enter into an Executive Session for the purpose of discussing pending litigation and a possible settlement of 175 Brookside, LLC v. Environmental Protection Commission. Mr. Joosten noted that Mr. Millard would be recusing himself from the session. Participants in the Executive Session shall include Mr. Joosten, Mr. Wright, Mr. Ervin, Mr. McGuinness, Ms. Bayne, Ms. Rossi, Mr. Talamelli, Mr. Fox, and Ms. Gaug.

Motion/Vote: Upon a motion by Mr. McGuinness and seconded by Mr. Ervin, the Commission voted to **ENTER INTO EXECUTIVE SESSION** with Town Counsel for the purpose of discussing pending litigation and possible settlement of 175 Brookside, LLC. v. Environmental Protection Commission.

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In Favor: Joosten, Wright, Ervin, McGuinness, Bayne, and Rossi
Opposed: None
Abstaining: None
Not Voting: Millard

The Commission exited Room 206. The EPC entered into Executive Session in Room 213 at approximately 7:01 P.M.

Upon the completion of the Executive Session, the Commission returned to Room 206, and Mr. Joosten reconvened the Regular Meeting at approximately 7:42 PM.

Note that Mr. Ervin left the meeting immediately following the Executive Session.

Mr. Millard resumed his participation in the Regular Meeting.

NEW BUSINESS:

Potential vote to authorize Town Counsel to enter into a settlement of 175 Brookside, LLC, v. Environmental Protection Commission:

No action taken.

EPC #34-2022, 50 Talmadge Hill Road - G. Cooperman and L. Cooperman: To demolish an existing in-ground pool, patio and related features and construct a new in-ground pool, pool house, patio, equipment, fence and other related facilities proximate to wetlands and watercourses. The property lies along the south side of Talmadge Hill Road, approximately 800 feet east of Hollow Tree Ridge Road, and is identified as Map 2, Lot 44, Zone R-2 and ±2.237 Acres.

Reference is made to an EPC Staff Memo, dated December 27, 2022.

In Attendance: Patricia Gill, Gill and Gill Architects

Discussion: Mr. Talamelli provided a brief summary of the application. He noted that the applicant seeks the Commission's permission to demolish an existing in-ground pool, patio, and related features and in their place, construct a new in-ground pool, pool house, patio, equipment, fence and other features proximate to the site's inland wetlands and watercourses. The application has been placed on the agenda to enable the Commission members to acknowledge receipt and to determine if a public hearing is warranted to consider the merits of the proposal. Mr. Talamelli reported that EPC Staff had inspected the site and is currently developing correspondence to more clearly identify issues pertinent to the application. He noted that important issues to be considered under the analysis shall include alternatives, drainage, water quality, and the value of any proposal to mitigate potential impacts or improve the overall conservation values of the regulated areas and property.

Mr. Wright stated that based on his initial review of the application, important elements of his review includes a discussion of alternative locations for the pool and pool house to lessen the potential

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impacts on the regulated areas, an amended planting/mitigation plan that expands the placement of native plantings and demarcation features in a northerly direction along the wetlands and watercourses, and a physical “stake out” of the new pool and pool house location in the field.

In response to a question from Mr. McGuinness, Mr. Talamelli confirmed that given the site’s proximity to the municipal boundary, that the Town Clerk of the Town of New Canaan was provided notice of this application in accordance with the Regulations.

Ms. Bayne and Rossi stressed the importance of providing an amended mitigation plan that provides for the removal of any accumulated structures/debris and the management of invasives.

Motion/Vote: None

OLD BUSINESS:

EPC #30-2022, 23 Crimmins Road, S. Rogers and M. Rogers: To construct/expand a recreational wood deck and other related features in a special flood hazard area and within 50 feet of wetlands. The property lies along the south side of Crimmins Road, approximately 600 feet east of Fitch Avenue, and is identified as Map 41, Lots 116-117, Zone R-1/3, and ±30,132 square feet.

Reference is made to an EPC “Draft” Resolution, dated January 5, 2023.

In Attendance: Sean Rogers

Discussion: Mr. Joosten reminded Commission members that the applicant seeks permission to construct an expanded deck, stair and related features within a special flood hazard area and proximate to the site’s wetlands and watercourses. Detailed information was submitted and extensive testimony was presented at the EPC’s December 7, 2022 meeting to address important concerns relating to resource impacts, water quality, drainage, flood impacts and structural floodproofing. Upon the completion of testimony, EPC Staff was directed to prepare a “draft” resolution for the Commission’s consideration at the next regularly scheduled meeting.

In response to an inquiry by Mr. Wright concerning the planting plan, Mr. Talamelli reported that the applicant provided Staff with an extensive planting/mitigation scheme for the property. However, the planting plan warrants substantial modification to adjust the scope and better address the restoration requirement for the regulated areas. Accordingly, a condition of approval has been added to the resolution to allow Staff to endorse a properly amended plan. Compliance shall be secured prior to the issuance of a building permit and a signoff authorizing the granting of a final certificate of zoning approval/occupancy/completion.

Further discussion between Staff and Commission members ensued on the concept of “substantial improvement” as applied to projects of this nature.

No edits to the “draft” resolution were proposed by Commission Members at this time.

Motion/Vote: Upon a motion by Mr. Millard and seconded by Mr. McGuinness, the Commission voted to **APPROVE** EPC Permit Application #30-2022 with the conditions outlined in the

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EPC "Draft" Resolution," dated January 5, 2023.

In Favor: Joosten, Millard, Wright, McGuinness, Bayne, and Rossi.
Opposed: None
Abstaining: None
Not Voting: None

EPC #31-2022, 1 Tanglewood Trail, J. Hurley, Jr. and J. Amos: To demolish an existing garage, construct residential additions, reconstruct a drive, install drainage and implement other related activities proximate to wetlands and watercourses. The property lies along the north side of Tanglewood Trail, just west of Rocaton Road, and is identified as Map 18, Lot 28, Zone R-1/2 and ±26,266 square feet.

Reference is made to and EPC Agenda Summary Report, dated December 27, 2022.

In Attendance: James Hurley, Jr.

Discussion: Mr. Talamelli summarized the application for Commission Members. He reported that the applicant seeks permission to demolish an existing garage, construct residential additions, reconstruct a driveway, install drainage, and implement other related activities proximate to the site's wetlands and watercourses.

The property currently supports a single family dwelling, driveway, walkways, patios, drainage, footbridge, and other related features. The dwelling is currently served by sanitary sewer and public water. The site is characterized by the presence of gently sloping developed lands, wooded wetlands, lawned wetlands, watercourses, and several large trees. The most densely wooded space lies along the northern and eastern boundaries. A reach of Cummings Brook generally flows north to south on the abutting parcel along this site's western border. The areas adjoining Cummings Brook support vegetation ranging from lawn grass to light/moderate woods. A smaller, intermittent tributary to Cummings Brook flows east to west across the subject property. Like the main channel, the tributary supports vegetation ranging from lawn grass to light/moderate woods. The property does not lie within a designated flood hazard area subject to regulation (Shaded Zone X, 09001C0528G, dated July 8, 2013.).

Mr. Talamelli stated that the purpose of the project is to both expand and improve the dwelling and mitigate historic flood damages by relocating and raising utilities in the dwelling. Given the scale and nature of this project, the applicant is required to demonstrate that it has minimized or avoided wetland/resource impacts, utilized measures to preserve water quality, addressed potential drainage impacts, and provided, when necessary, measures to mitigate for unavoidable impacts or improve the overall conservation values of the regulated areas and property. In response, the applicant sought to address these matters as follows:

The project engineer/surveyor has provided a site development plan. The applicant reports that there are no direct wetland or watercourse encroachments proposed. The applicant reports that the encroachments temporarily/permanently affect ±500 square feet (0.011 Acres) of the upland review area. The affected space is generally comprised of existing development, manicured lawn or planting beds. Overall grade change is "low" with the anticipated cuts/fills not expected to exceed two (2) feet.

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Structures and related features lie no less than twenty-seven (27) feet to the wetlands and thirty-eight (38) feet to the watercourses. Vegetation loss shall be limited to several ornamentals.

The project engineer has developed a plan/report to address the issue of drainage impact. It is noted that existing drainage and infiltration systems exist on the parcel. A small residential addition is proposed for the rear plane of the building (north) and a patio/trellis is proposed for the front plane (south). A de minimis increase in site imperviousness (± 265 square feet) is expected. No new drainage systems are proposed. Roof drainage dropping to the ground shall be stabilized with concrete/plastic splash pads. If constructed per the design, the engineer confirmed that there will be no increase in the peak rates of runoff for storms ranging from 2-50 years. Accordingly, the project engineer has asserted that the project will not adversely impact drainage or the adjoining properties. A basic maintenance/operations plan has been provided for the existing systems. The consulting Town Engineer has verified the project design and findings of the final drainage report.

To assist in the preservation/enhancement of water quality, the applicant has provided a basic sediment and erosion control plan consisting of perimeter silt fences (double row), anti-tracking pad, designated storage/stockpile areas, stabilized gutter outfalls for any roof drains that discharge to the ground, and the application of final stabilizing groundcovers for any disturbed earth surfaces. It is noted that an existing driveway catch basin that currently drains without pre-treatment to Cummings Brook shall be abandoned.

A wetlands/buffer enhancement plan has been proposed to filter runoff and further the conservation objectives of the prior redevelopment proposal. The plan provides for the creation of a "No Mow Zone" in offsite areas (west) along the brook, the establishment of a demarcation feature along the west property boundary to define the new established "No-Mow Zone" (west), the removal of certain recreational features and debris from wetland areas (north), and the introduction of a few supplemental shrub plantings (Red Osier Dogwood - 5, and Summer Sweet Clethra - 10) in and proximate to the wetlands and watercourses (north). Staff asserted that some additional number of plantings may be necessary to the lawned space south of the intermittent watercourse to better define the regulated space, displace lawn, and filter runoff from developed portions of the property.

Ms. Bayne and Rossi expressed the opinion that the mitigation plan should be amended to include provisions for the removal of invasives and the addition of planting in rear yard areas to improve the overall conservation values of the regulated areas and property. The planting should be enhanced in the lawned space between the dwelling and the intermittent watercourse. Further inquiries concerning long term drainage and landscape maintenance were addressed by Mr. Talamelli, who reported that an operations and maintenance plan had been supplied by the project engineer, and both the permit and maintenance plan shall be referenced in a notice that will be filed in the Darien Land Records prior to the start of site activity. Mr. Hurley added that he is a member of the local homeowners association that is active in the regular cleaning of culverts and drainage features in the area to promote "good drainage function."

There being no further questions or comments, the Chair directed Staff to draft a resolution for the Commission's consideration in advance of the next meeting.

Motion/Vote: None

EPC #32-2022, 41 Saint Nicholas Road, E. Johnson and C. Johnson: To construct an elevated terrace, patios, and walkways, expand a driveway/parking court, install drainage, and implement landscaping in or proximate to wetlands. The property lies along the north side of Saint Nicholas Road, approximately 1040 feet west of Mansfield Avenue, and is identified as Map 6, Lot 99, Zone R-1 and ±2.00 Acres.

Reference is made to an EPC Agenda Summary Report, dated December 28, 2022, revised to January 3, 2023 and correspondence from Timothy Lynch, RLA, Kathryn Herman Design, dated January 3, 2023.

In Attendance: None

Discussion: Mr. Joosten acknowledge the receipt of correspondence from Timothy Lynch, RLA, Kathryn Herman Design, dated January 3, 2023 requesting this matter be deferred to a future meeting to allow for minor design adjustments.

Motion/Vote: None

APPROVAL OF MINUTES

Minutes of the Regular Meeting of December 7, 2022:

Reference is made to the “Draft” EPC Meeting Minutes for the Regular Meeting of December 7, 2022.

Members present and eligible to vote were Mr. Joosten, Mr. Millard, and Mr. McGuinness. No further additions or modifications were suggested.

Motion/Vote: Upon a motion by Mr. Millard and seconded by Mr. McGuinness, the Commission voted to **APPROVE** the Minutes of the December 7, 2022 Regular Meeting as presented.

In Favor: Joosten, Millard, and McGuinness
Opposed: None
Abstaining: None
Not Voting: Wright, Bayne and Rossi

AGENT APPROVALS: None

OTHER BUSINESS:

Mr. Talamelli reported that over the next few months, Commission Members shall be offered the use of I-Pads to assist in the review of permit application data electronically. The effort is part of the Town’s overall commitment to move on from “paper” based submittals as the means to reduce resource impacts, allow for more proficient hearing presentations, and improve both access and the overall efficiency of the community’s document management systems. All members confirmed their

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interest in participating in the effort and requested some basic introductory instruction as the project moves forward.

ADJOURN:

Adjourn the Regular Meeting of January 4, 2023:

Motion/Vote: There being no further business, and upon a motion by Mr. Millard and seconded by Mr. McGuinness, the Commission voted to **ADJOURN** the Regular Meeting of January 4, 2023.

In Favor: Joosten, Millard, Wright, McGuinness, Bayne, and Rossi
Opposed: None
Abstaining: None
Not Voting: None

Meeting adjourned at 8:17 PM.



Eric Joosten, Chairman
Environmental Protection Commission