

**ENVIRONMENTAL PROTECTION COMMISSION (EPC)
TOWN OF DARIEN, CONNECTICUT
MEETING MINUTES
REGULAR MEETING JULY 5, 2023**

MEMBERS PRESENT:

Eric Joosten, Chairman
William Wright, Member
Peter McGuinness, Member
Lauren Rossi, Member

MEMBERS NOT PRESENT:

James Millard, Vice Chairman
Michael Ervin, Member
Carolyn Bayne, Member

STAFF PRESENT:

Richard Talamelli, Environmental Protection Officer

The “in-person” meeting was held in Darien Town Hall (Room 206), 2 Renshaw Road, Darien, Connecticut. The meeting was video/audio recorded.

Meeting was called to order by Mr. Joosten at 7:01PM.

NEW BUSINESS:

EPC #20-2023, 29 Brush Island Road, DCC Revocable Family Trust: To replace a ramp and floating dock with a piling-supported pier, ramp and floating dock within 100 feet of Holly Pond and other areas of resource. The property lies along the north side of the terminus of Brush Island Road, approximately 1,525 feet west of Nearwater Lane, and is identified as Map 56, Lot 15, Zone R-1, and ±0.850 Acres.

Reference is made to an EPC Staff Memo, dated June 29, 2023.

In Attendance: John Hilts

Discussion: Mr. Talamelli provided a brief summary of the application. He reported that the applicant seeks the Commission’s permission to replace a ramp and floating dock with a pile supported pier, ramp and floating dock within 100 feet of Holly Pond and other areas of resource. 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 upon the receipt of any preliminary comments by Commission members, shall develop correspondence to more clearly identify issues pertinent to the application.

Mr. Talamelli reminded Commission Members that a project to redevelop this parcel with an extensively renovated single family dwelling, new additions, an elevated pool/pool house and other

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related features was the subject of an EPC Permit Application in 2022 (29 Brush Island Road, DCC Revocable Family Trust, #21-2022, dated 11/03/2022). Construction is on-going.

Mr. McGuinness, Mr. Wright and Ms. Rossi sought further information concerning the concept for the dock project. Mr. Hilts explained that the existing ramp and floating dock shall be replaced with a pile supported pier, ramp and floating dock. Although situated in the general vicinity of the existing facilities, the new dock will be slightly larger and extend further out into Holly Pond. The new facilities have already been fully permitted by the State DEEP. Mr. Hilts stated that the dock, given its location and limited navigational effects, is not expected to support lighting

EPC #21-2023, 2 Harriett Lane, S. Pankanti and P. Tulasi: To construct an elevated condenser platform and related features within a special flood hazard and proximate to wetlands and watercourses. The property lies along the west side of Harriett Lane, just north of Tokeneke Road, and is identified as Map 36, Lot 22, Zone R-1/2, and ±0.66 Acres.

Reference is made to and EPC Memo, dated June 29, 2023

In Attendance: Sharathchandra Pankanti

Discussion: Mr. Talamelli provided a brief summary of the application. He reported that the applicant seeks the Commission's permission to construct an elevated condenser platform and related features within a special flood hazard and proximate to 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 upon the receipt of any preliminary comments by Commission members, shall develop correspondence to more clearly identify issues pertinent to the application.

Mr. Joosten and Mr. McGuinness noted that a condenser had already been installed at grade along the southern plane of the dwelling and that this feature would need to be elevated to comply with the flood damage prevention requirements outlined in the local regulations. Mr. Joosten further noted that upon the receipt of any necessary resource and floodproofing design certifications that this project may be suitable for an agent approval.

EPC #22-2023, 26 Parsons Walk, E. Panageas: To construct a fence in and proximate to wetlands and watercourses. The property lies along the south side of Parsons Walk, approximately 975 feet west of Old Parish Road, and is identified as Map 20, Lot 31, Zone R-1, and ±1.41 Acres.

In Attendance: Ellen Panageas

Discussion: Mr. Talamelli provided a brief summary of the application. He reported that the applicant seeks the Commission's permission to construct a fence in and proximate to wetlands and watercourses generally along the site's perimeter (rear yard). 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 noted that redevelopment of this property was the subject of a prior EPC Agent Approval issued in April 2021 (26 Parsons Walk, E. Panageas, #16-2021, 04/08/2021). The project provided for

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the construction of a new single family dwelling, drive, drainage and other related features proximate to the site's wetland and watercourses. The existing in-ground pool and pool house generally remained "unaltered." Recent inspections showed that the project is "substantially complete" with the exception of driveway paving, final landscaping, and other minor punch list items. Final certifications and compliance inspections are pending.

Dr. Panageas stated that the fence is proposed to provide pool security, prevent trespass and serve as an impediment to deer and other forms of wildlife. She noted that she is particularly concerned by the presence of deer and potential impacts of Lyme Disease. The fence will be partially situated in the designated wetlands and proximate to an open watercourse situated to the rear of the parcel. The five (5) foot high, pool compliant, aluminum fence will be worked around existing large trees, installed as to avoid existing subsurface features, and be elevated in select areas to allow for the passage of storm waters and movement of certain small, more desirable forms of wildlife. There are no watercourse crossings proposed.

In response to a question posed by Mr. McGuinness, Dr. Panageas stated that an alternative layout that reduces the wetlands impact and more closely follows the fence that currently surrounds the existing pool would not solve the issue of trespass, particularly in the rear sections of the parcel. A discussion ensued between the applicant and Commission members concerning the value of the newer pool safety covers, alternative means to limit trespass, and other related matters.

OLD BUSINESS:

EPC #5-2023, 17 Nickerson Lane, M. Ross and K. Ross: To construct a new single family dwelling, drive, walkways, terraces, water service, sanitary sewer, swimming pool, walls, and other related features in a special flood hazard area and proximate to Holly Pond and other areas of resource. The property lies along the south side of Nickerson Lane, approximately 800 feet west of Nearwater Lane, and is identified as Map 52, Lot 9, Zone R-1 and ±0.9799 Acres.

Reference is made to an EPC "Draft" Resolution, dated July 6, 2023.

In Attendance: None

Discussion: Mr. Talamelli reminded Commission Members that the applicant seeks the Commission's permission to construct a new single family dwelling, drive, walkways, terraces, water service, sanitary sewer, swimming pool, walls, and other related features in a special flood hazard area and proximate to Holly Pond and other areas of resource. He noted that the property is characterized by the presence of gently to moderately sloping uplands along with the resources identified as coastal flood hazard areas, tidal wetlands, shorelands, and estuarine embayment. Many large trees lie on or immediately adjacent to the parcel.

Mr. Talamelli further noted that the EPC initially considered Application #5-2023 at its Regular Meeting held on February 1, 2023. The Commission acknowledged the receipt of EPC Application #5-2023 based upon a determination that the minimum information necessary for consideration of a permit application has been submitted. In addition, the Commission determined to schedule a public hearing based upon a finding that the hearing on this matter would be in the "public interest" and that the development may result in "significant Impact." On March 29, 2023, the initial session of the public hearing was held. Continued hearings were held on both May 17, 2023 and June 7, 2023.

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During each session, the applicant's representatives presented information summarizing the project details and provided answers to concerns raised by Commission Members, EPC Staff, the Town's designated peer reviewers and other interested parties. The public hearing was closed on June 7, 2023. Mr. Talamelli stated that a "draft" resolution, dated July 6, 2023, was prepared in advance of this meeting and presented to the Members to describe the project, summarize findings and outline potential conditions of approval. He noted that reasoning for the decision shall be clearly stated on the record and findings shall be consistent with the provisions of Section 10 of the "Inland Wetland and Watercourse Regulations of the Town of Darien" including those pertaining to "feasible" and "prudent" alternatives.

Mr. Talamelli further reminded the Members that the record on this application was closed and that no further information or testimony outside of the record could be considered.

Mr. McGuinness stated that the project had been thoroughly vetted and numerous alternatives have been considered under the application process to reduce potential impacts on regulated areas and other areas of resource. He noted that his position on this application is founded on the in-depth evaluation and expert testimony provided by the environmental and engineering professionals engaged by the Town. Ultimately, pertinent issues raised during the application process were satisfactorily addressed and the Town's consulting professionals offered an endorsement of the project.

Mr. Wright stated that the Town's environmental and engineering experts provided convincing testimony that the project, as currently proposed, will have an acceptable impact on regulated areas and other areas of resource.

Ms. Rossi confirmed that she had inspected all materials pertinent to this application, reviewed the videos, and was prepared to discuss and vote on this application. She stated that she remains unconvinced that the application goes far enough to minimize impacts on regulated areas and resources, particularly on matters concerning the site's largest trees. Further design alternatives to further reduce impacts may be available to the Commission. Although acknowledging the improvements gained during the application process, she would have been more inclined to move forward with this application if the current plans served as the "starting point" in the review process.

Mr. Joosten stated that the original submittal may have been impactful, but through the application process, alternative designs were embraced by the applicant to reduce the encroachments and minimize the potential impacts on both regulated areas and resources. Mr. Joosten also confirmed that his position was rooted in the evaluation, expert testimony and positive endorsement offered by the Town peer reviewers.

Motion/Vote: Upon a motion by Mr. McGuinness and seconded by Mr. Wright, the Commission voted to **APPROVE** EPC Permit Application #5-2023 with the findings and conditions outlined in the "Draft" EPC Resolution, dated July 6, 2023.

In Favor: Joosten, Wright, and McGuinness
Opposed: Rossi
Abstaining: None

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Not Voting: None

EPC #14-2023, 16 Hamilton Lane, T. Haavik and K. Haavik: To install a deer and ornamental fence in and within close proximity to wetlands, watercourses and special flood hazard areas. The property lies along the south side of Hamilton Lane, approximately 780 feet west of Brookside Road, and is identified as Map 10, Lot 23, Zone R-1 and ± 1.058 Acres.

References is made to and EPC Staff Agenda Summary Report, dated June 29, 2023.

In Attendance: Kathryn Haavik

Discussion: Mr. Talamelli summarized the application for the Commission. He stated that the applicant seeks the Commission's permission to install a deer and ornamental fence in and within close proximity to wetlands, watercourses and special flood hazard areas.

The property currently supports a single family dwelling, paved drive, walkways, patios, shed, and other related features. The dwelling is served by both sanitary sewer and public water. The site is characterized by the presence of gently to moderately sloping developed lands, wetlands maintained as lawn, wetlands held as woodland, special flood hazard areas, many large trees, and stone walls. A watercourse, which is a tributary to the Goodwives River, parallels the rear (south) property boundary. That watercourse generally flows northeast to southwest.

A soils report was prepared by a Connecticut soil scientist. Both wetland and non-wetland soils have been identified. Vegetation types in the wetland range from manicured lawn to light/moderate woods with the most manicured space lying proximate to the dwelling in the approximate center of the parcel.

Per the submitted survey, the property is situated, in part, within a designated special flood hazard area (Zone AE, Elevation 116.3 feet NAVD-88) as reflected on Flood Insurance Rate Map 09001C0528G, Effective date 7/8/2013), and modified by a LOMR, dated September 9, 2014 (Case 13-01-2598P). Floodwaters may affect most of the property, less the space lying immediately adjacent to the dwelling in the approximate center of the site. Flood waters appear to range from 0-5.5 in depth during the peak of the storm. The most severe flooding may occur to the south and west. There is dry access to the site during the peak of the base flood, north and east on Hamilton Lane to Brookside Road.

Mr. Talamelli reported that the applicant seeks the Board's permission to install a fence along the site's perimeter (rear yard) as the means to limit the influence of deer and other forms of wildlife and provide a protected area for the enjoyment of property and certain recreational uses. The fence shall be comprised of six (6) foot high, solid vinyl fence in the vicinity of the dwelling, and eight (8) foot high, black plastic wire "deer" fencing on the remainder of the site. As proposed, the fence will affect an estimated 180 square feet of wetland (0.004 Acres), 203 square feet of the upland review area (0.005 Acres), and 525 square feet (0.012 Acres) of the special flood hazard. It is reported that the fence will be worked around existing large trees and be elevated in select areas to allow for the passage of storm waters and movement of certain small, more desirable forms of wildlife. Excavation is limited to that necessary to support fence posts. There are no watercourse crossings proposed. A Connecticut engineer has verified that the fence, as proposed, will not exacerbate flooding conditions, impede drainage, or significantly contribute to a post-storm debris field.

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Mrs. Haavik then addressed the Commission. She asserted that she and her husband were staunch environmentalists – reporting that they have installed solar panels on their dwelling and looking to construct geothermal wells as the means to preserve a sustainable future. However, they seek the Board’s permission to construct a combination deer and ornamental fence along property boundaries to the rear of the dwelling to limit the intrusion of wildlife and provide a safe play area for their young children and pets. She noted that the fence shall be located as to avoid large trees/stone walls, and shall be designed in a manner that maintains the free flow of drainage. Watercourses will not be crossed with the fence. She noted that the “drainage ditch” that parallels the southern property boundary conveys storm water only in the most intense storms. The fence shall run parallel to the “ditch.”

Ms. Rossi stated that the segmentation of habitats is concerning and less intrusive measures may be employed to limit wildlife intrusion including the use of motion activated sprinklers. Mr. Joosten noted that the elimination of certain features, such as bird feeders, may reduce the attractiveness of the property for a wide range of small mammals and potential predators.

Mr. Talamelli stated that the Commission may look to balance the needs of the agency to protect the values and function of the wetlands/watercourses with the desires of the applicant to maintain a certain level of safety and quality of life. A proper compromise may disallow watercourse crossings, maintain a minimal setback to stream corridors, elevate the fence in select areas to allow for overland flows and the movement of desirable forms of wildlife, confine the barrier to the least flooded spaces, and work with existing subsurface structures and trees of size and value.

Mrs. Haavik voiced concern that a setback to the offsite watercourse may obscure property boundaries and diminish the value of the property.

Mr. Wright noted that he is not a fan of fences given the potential wildlife and drainage impacts, but understands the applicant’s safety concerns.

Mr. McGuinness expressed that he was not fundamentally bothered by the fence application given the constraints of the property and design of the barrier.

Upon the completion of testimony, the Commission directed Staff to draft a resolution in advance of the next meeting.

EPC #15-2023, 14 Hamilton Lane, M. Leister and M. Leister: To install a deer and ornamental fence in and within close proximity to wetlands, watercourses and special flood hazard areas. The property lies along the south side of Hamilton Lane, approximately 670 feet west of Brookside Road, and is identified as Map 10, Lot 22, Zone R-1 and ±1.128 Acres.

Reference is made to and EPC Agenda Summary Report, dated June 29, 2023.

In Attendance: None

Discussion: Mr. Talamelli summarized the application for the Commission. He reported that the applicant seeks the Commission’s permission to install a deer and ornamental fence in and/or within close proximity to wetlands, watercourses, and special flood hazard areas. The property currently supports a single family dwelling, paved drive, walkways, patios, shed, and other related

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features. The dwelling is served by both sanitary sewer and public water. The site is characterized by the presence of gently to moderately sloping developed lands, wetlands maintained as lawn, wetlands held as woodland, a small intermittent watercourse, special flood hazard areas, and many large trees. A smaller intermittent watercourse impacts portions of the property to the south and east. A larger perennial watercourse parallels most of the rear (south) property boundary. That watercourse generally flows northeast to southwest and is a tributary to the Goodwives River

Vegetation types in the wetland range from manicured lawn to moderate woods with the most manicured space lying proximate to the dwelling in the approximate center of the parcel. Per the submitted survey, the property is situated, in part, within a designated special flood hazard area (Zone AE, Elevation 116.32 feet NAVD-88) as reflected on Flood Insurance Rate Map 09001C0528G, Effective dated 7/8/2013), and modified by a LOMR, dated September 9, 2014 (Case 13-01-2598P). Based on the submitted survey, floodwaters may affect the southern portions of the property. The most severe flooding appears to occur to the south and west. There is dry access to the site during the peak of the storm, north and east on Hamilton Lane to Brookside Road.

Mr. Talamelli noted that EPC Staff previously issued a permit (Agent Approval”) for a replacement dwelling and attendant facilities on this property (14 Hamilton Lane, KC Builders, #15-2020, June 3, 2020).

Mr. Talamelli went on to note that the applicant seeks the Board’s permission to install a fence along the site’s “rear yard” as the means to limit the influence of deer and other forms of wildlife and provide a protected area for the enjoyment of property and certain recreational uses. The fence shall be comprised of six (6) foot high, solid vinyl fence in the vicinity of the dwelling, and eight (8) foot high, black plastic wire “deer” fencing on the remainder of the site. Two (2) alternatives were made available to the Commission. The first generally follows property boundaries and includes provisions for the crossing of an intermittent watercourse. The second modifies the fence line to parallel all existing watercourses. It is reported that the fence will be worked around large trees and will be elevated above grade in select areas to allow for the passage of stormwater and the movement of certain small, more desirable forms of wildlife. In addition, a Connecticut engineer verified that the fence, as proposed, will not exacerbate flooding conditions and will remain generally free of flood damages.

Mr. Joosten stated that he was familiar with the property and its resources and would welcome additional time to study the project to evaluate its impacts. He further noted that he had questions for the applicant and wanted to afford the applicant the opportunity to respond. Discussion ensued between Commission Members on the availability of further alternatives and the value of planting/mitigation on projects of this sort. Accordingly, it was the sense of the Members present, that the Commission would defer from further action on this application to allow for further study and enable the applicant or a duly authorized agent to attend and answer Commission questions.

APPROVAL OF MINUTES:

Minutes of May 17, 2023: Reference is made to the “Draft” EPC Meeting Minutes for the Continued Public Hearing and Special Meeting of May 17, 2023.

Members present and eligible to vote were Mr. Joosten, Mr. Wright, Mr. McGuinness and Ms. Rossi.

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No further additions or modifications were suggested.

Motion/Vote: Upon a motion by Mr. McGuinness and seconded by Mr. Wright, the Commission voted to **APPROVE** the Minutes of the May 17, 2023 Continued Public Hearing and Special Meeting as presented.

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

Minutes of June 7, 2023: Reference is made to the “Draft” EPC Meeting Minutes for the Continued Public Hearing and Regular Meeting of June 7, 2023.

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

Motion/Vote: Upon a motion by Mr. McGuinness and seconded by Mr. Wright, the Commission voted to **APPROVE** the Minutes of the June 7, 2023 Continued Public Hearing and Regular Meeting as presented.

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

AGENT APPROVALS:

EPC #19-2023, 5 Timber Lane, S. Keefe and C. Seckinger.: To install a fence, playscape, lawn grass, and native landscaping in or within close proximity to wetlands. The property lies along the west side of Timber Lane, approximately 375 feet north of Hollow Tree Ridge Road, and is identified as Map 3, Lot 35, Zone R-2 and ±1.686 Acres.

Reference is made to a, EPC “Draft” Agent Approval, dated July 6, 2023.

In Attendance: Barbara Wilson, B. Wilson Landscape Architects

Discussion: Mr. Talamelli summarized the application for the Commission. He reported that the applicant seeks permission to install a fence, playscape, lawn grass, and native landscaping in or within close proximity to wetlands on this parcel. The parcel currently supports a single family dwelling, patio, drive, walkways, and other related features. The dwelling is currently served by a subsurface sewage disposal system and well. The property is characterized by the presence of gently sloping developed lands, light to moderately wooded wetlands, a watercourse, and many large trees.

A soils report was generated by a Connecticut Soil Scientist. Both uplands and wetlands have been identified. Upland soils, which occupy the northwestern and central portions of the site, have been

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classified as Udorthents-Urban land complex (306) and Paxton and Montauk, fine sandy loams (84). Wetland soils, which occupy the southern and eastern limits of the property, have been classified as Ridgebury, Leicester and Whitman, extremely sandy, fine sandy loam (3). The Ridgebury complex consists of poorly drained and very poorly drained soils that are commonly found in depressions and drainageways in uplands and in valleys. The soil is characterized by a seasonal high water table at or near the surface (fall to spring), slow to very slow permeability (substratum) and slight to very strong acidity. The high water table and surface stones pose severe restrictions on development. A watercourse generally flows north to south along Timber Lane.

The applicant proposes to grind a remnant stump, remove accumulated logs, brush, chips, and debris (by hand), and plant numerous native landscape features in the wetland soil areas to the southwest. In the adjoining upland review area, the applicant proposes to remove existing patches of Pachysandra, install a minimal depth of top soil (approximately 2 inches), and sow a new/renovated lawn area. A four (4) foot high picket fence, generally aligned with the existing drive, shall define the limits of lawn and landscape. Additional plantings shall be added to the upland review areas as well. Buffers of 5-50 feet shall be maintained. It is reported that the activities shall temporarily/permanently impact approximately 858 square feet (0.02 Acres) of the wetland and 2,067 square feet (0.047 Acres) of the upland review area. No additional trees shall be lost and grade change is minimal. It is not anticipated that the activities will adversely impact drainage or the adjoining properties. Sediment and erosion controls consisting of a perimeter silt fence and final stabilization measures shall be implemented.

Plantings have been purposed to displace lawn and non-native groundcovers, screen abutters, filter runoff, mitigate for a prior tree removal, and/or improve the overall conservation values of the regulated areas and property. The plan provides for the installation of numerous, trees (Atlantic White Cedar – 2, Sweet Gum – 2, Nellie Steves Holly – 2 and Green Giant Arborvitae - 6), shrubs (Summersweet Clethra – 4, Endless Summer Hydrangea – 16) and groundcovers (Cardinal Flower – 5 and Cinnamon Fern - 8). Many of the selected trees/shrubs are recognized for their conservation value. The planting supplements a low profile, four (4) foot high picket fence proposed to define the limits of lawn and landscape and serve as a demarcation feature for both the conservation plantings and wetland soil areas. Note that the bottom rail lies approximately four (4) inches above the level of the ground to allow for both the free flow of drainage and movement of certain forms of wildlife.

Mr. Talamelli asserted that the activity will have no greater than a minimal impact on the wetland and watercourses and therefore qualified for the agent approval process.

There were no further questions or comments by Commission members.

OTHER BUSINESS: None

ADJOURN:

Adjourn the Regular Meeting of July 5, 2023:

Motion/Vote: There being no further business and upon a motion by Mr. McGuinness and seconded by Mr. Wright, the Commission voted to **ADJOURN** the Regular Meeting of July 5, 2023.

In Favor: Joosten, Wright, McGuinness, and Rossi.

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Opposed: None
Abstaining: None
Not Voting: None

The meeting was adjourned at 8:50 PM.

Eric Joosten, Chairman
Environmental Protection Commission

July 27, 2023
July 31, 2023 (Post Edits)
August 7, 2023 (Post Meeting)