

FINAL

**ENVIRONMENTAL PROTECTION BOARD
CITY OF STAMFORD
MINUTES OF THE NOVEMBER 16, 2023
REGULAR MEETING
CONDUCTED VIA INTERNET AND CONFERENCE CALL**

MEMBERS PRESENT:

Gary H. Stone, Chairman
Leigh Shemitz, Member
Laura Tessier, Member
Todd Gambino, Member
Thomas Romas, Alternate Member
David Kozlowski, Alternate Member

MEMBERS NOT PRESENT:

Stephen Schneider, Alternate Member

STAFF PRESENT:

Robert Clausi, Executive Director
Jaclyn Chapman, Environmental Analyst
Courtney Fahan, OSS, Land Use Bureau

Mr. Stone called the meeting to order at 7:30 p.m. Seated to vote for the meeting were Mr. Stone, Dr. Shemitz, Ms. Tessier, Mr. Gambino, and Mr. Romas.

Mr. Stone introduced the first item on the agenda.

➤ **MINUTES:**

October 19, 2023 (Regular Meeting)

The Board considered the minutes of the October 19, 2023 Regular Meeting. Members who were present at that meeting and eligible to vote were Mr. Stone, Ms. Tessier, and Mr. Gambino. No comments or modifications were recommended.

Motion/Vote: Upon a motion by Mr. Gambino and second by Ms. Tessier, the Board voted to **ACCEPT** the Regular Meeting Minutes of October 19, 2023.

In Favor: Stone, Tessier, and Gambino
Opposed / Abstaining / Not Voting: None

➤ **APPLICATIONS & PERMITS:**

Acceptances/Extensions/Withdrawals

#2023-21 – 237 Blackberry Drive – Lot 31 –Steven Infield: To install a generator proximate to wetlands and watercourses on a property located within the public drinking water supply watershed of the Mianus River (East Branch). The property is situated along the west side of Blackberry Drive, and is identified as Lot 31, Account 003-4097, Card N-024, Map 15, Block 402, Zone RA-1, and is \pm 1.00 Acres.

#2023-22 – 65 Stanton Lane – Jessica Domiziano: To construct residential additions and drainage system proximate to wetlands on a property located within the non-public drinking water supply watershed of the Rippowam River. The property is situated on the north side of Stanton Lane, and is identified as Lot 90, Account 002-3687, Card N-005, Map 102, Block 360, Zone R-20, and is \pm 0.62 Acres.

Mr. Stone acknowledged receipt of the minimum information necessary to accept EPB Permit Application Nos. 2023-21 and 2023-22.

Motion/Vote: Upon a motion by Mr. Romas and second by Mr. Gambino, the Board voted to **ACCEPT** EPB Permit Application Nos. 2023-21 and 2023-22.

In Favor: Stone, Shemitz, Tessier, Gambino, and Romas
Opposed/ Abstaining/ Not Voting: None

Action Items

#2023-11 – 83 Camp Avenue (Lot 22) – Steve Mickels for M F Real Estate LLP

Continue to use the property as a storage area for landscaping materials, including gravel, topsoil, and mulch within the special flood hazard area Zone AE (Base Flood Elevation 76 feet, FIRM panel 09001C0507F). The property is situated along the south side of Camp Avenue, and is identified as Lot 22, Account 001-0553, Card S-006, Map 86, Block 319, Zone MG, and is \pm 0.508 Acres.

In Attendance: Joseph Capalbo, Attorney
Jose Villaluz, P.E., Risoli Engineering

Discussion: The summary of the application offered by Ms. Chapman provided details of the project and discussed the impacts to the area from the work that is proposed. Mr. Clausi reminded the Board that the application must be decided on at this meeting as the statutory review period will end later this month. Mr. Clausi also noted that Ms. Chapman accompanied Mr. Stone and Dr. Shemitz on separate visits to the site and that he and Ms. Chapman observed the conditions on the site during the heavy rainstorm we had at the end of September. Mr. Romas and Mr. Gambino reported that they have looked at the site from adjoining properties.

Ms. Tessier began the members' discussion by summarizing her concerns with the proposal:

- The FEMA flood maps do not accurately reflect current and future conditions. Their shortcomings, including that they do not take climate change into account, have been recognized by the American Society of Floodplain Managers, the Natural Resources Defense Council, and FEMA itself, which anticipates floodplains will increase in extent.
- Transport of material off the site during storms and resulting water quality impacts.
- The fact that the late September – early October storms, which amounted to about 5-year return frequency events, flooded the southern quarter of the site, as shown in photographs that are in the record.

Dr. Shemitz expressed concerns that the applicant's flood preparedness guidelines rely on "trained personnel" to deploy protective measures before storms. The guidelines lack the details of what intensity of anticipated rainfall or flooding event will trigger such action. The temporary nature of the protective measures to be used (e.g., coir logs, tarps) will require a type of long-term vigilance and effort that the Board generally does not find acceptable, and

begs the question why more permanent measures had not been incorporated into the plan over the four months this application has been under review. Mr. Kozlowski echoed this point. Dr. Shemitz concluded by noting the proposed level spreader will be susceptible to being damaged by the vehicles operating on this site and will also need continued maintenance. Mr. Clausi added that the woodlot adjacent to where the level spreader is proposed is a conservation easement owned by the abutting property owner.

Mr. Villaluz, speaking on behalf of the applicant, introduced himself and stated the level spreader will be able to filter sediment coming off the site and will be cleaned periodically to maintain its water quality function. Mr. Clausi followed up on the comments made about the temporary nature of the proposed site controls and asked why the applicant hadn't explored adding shed roofs over the bins containing topsoil and other materials susceptible to being eroded during rainstorms or other more sustainable impact mitigation measures. Mr. Villaluz replied that roofs can probably be put over some bins and suggested other measures, such as subsurface chambers, that could be added to the plan.

Mr. Gambino questioned whether the level spreader had been designed based on the size of the contributing impervious area and noted that if it had not it could be overwhelmed in rainstorms, not just flood events.

Dr. Shemitz agreed with the statements made by the other members and added that the removal of hazardous materials such as fuel from the site that the applicant states has been completed since this application was submitted is not necessarily a permanent condition. She also noted that the revised plans still do not include details of the flood vents that need to be installed in the shed as part of its required flood-proofing.

Mr. Clausi directed the attention of the applicant and Board to section 7.5.d of the Stamford Inland Wetlands & Watercourses Regulations and noted prudent and feasible alternatives for this operation may include storing a different mix of products that is less erodible than what is now stored on site or using a completely different location for this operation.

The applicant's attorney, Joseph Capalbo, asked if the Board might issue a temporary permit so the applicant can address the concerns that have been voiced at this meeting. Mr. Clausi answered the Board should either approve the application that is before it with conditions or deny the application. Mr. Capalbo then requested that if the Board denies the application, they deny it without prejudice so the applicant can make the changes and reapply immediately.

Hearing no further comments from the Board or applicant's representatives, Mr. Stone asked whether anyone from the public wished to address the Board. Hearing no comments from the public, Mr. Stone asked for a motion from the Board.

Motion/Vote: Upon a motion by Dr. Shemitz and second by Ms. Tessier, the Board voted to **DENY**, without prejudice, EPB Permit No. 2023-11 due to the likelihood the temporary site control measures proposed by the applicant are inadequate to prevent the ongoing use of this property as a landscaping materials supplier from having adverse impacts on wetland, watercourse, and flood plain resources, functions, and values. Alternative site control measures that are permanent should be designed based on the scale of the site and the nature of the rain and flood events to which the site is subject. Such permanent measures, of which some have been suggested this evening, must be incorporated into any subsequent application seeking to maintain the current operation. These measures must include a means of permanently prohibiting on-site storage of hazardous materials and permanent means to prevent erodible materials such as topsoil from being mobilized in rainstorms and floods up to the 100-year storm event.

In Favor: Stone, Shemitz, Tessier, Gambino, and Romas
Opposed / Abstaining / Not Voting: None

#2023-17 – 1349 Newfield Avenue – Sterling Farms Golf Course

Hydrorake two ponds on a property within the non-drinking water supply watersheds of Springdale Brook, Ayers Brook, and the Noroton River. The property is located along the east side of Newfield Avenue, approximately 50 feet east of the intersection of Newfield Avenue and Newfield Drive, and is identified as Lot A, Account 002-6063, Card E 073, Map 78, Block 380, Zone P, and is ± 132.500 Acres.

No discussion pending receipt of additional information

#2023-18 – 50 West Main Street – The Mill River Park Collaborative

Replace a playground on a property within the non-drinking water supply watershed of the Rippowam River. The property is located on the east side of West Main Street just north of Tresser Boulevard.

In Attendance: Michael Stake, Vice President, and Nette Compton, President & CEO, Mill River Park Collaborative

Discussion: A summary of the application offered by Mr. Clausi provided details of the project and discussed the impacts to the area from the work to be performed. Mr. Clausi acknowledged the applicant's efforts to address the issues raised by the Board at the October meeting. He noted that the required hydraulic report has been submitted and found to be acceptable by the Engineering Bureau. The plans have also been revised to reduce the amount of impervious encroachment into the isolated wetland, relocate the new drainpipe outfall outside of this wetland, enhance both the isolated wetland and rain garden at the drainage outfall with native perennial plants, and substitute permeable pavers for the previously proposed impervious surface in the vicinity of the new rest rooms. Overall, impervious coverage will be reduced from the current 26.6% to 20.4%.

Mr. Tessier thanked the applicant for the modifications they have made, but stated she is concerned that the gravel bedding around the new drainpipe proposed through the western end of the isolated wetland will divert water from this wetland. water drainage into the wetlands. Mr. Clausi suggested this might be prevented if anti-seep collars are installed around the drainpipe.

Dr. Shemitz stated the revised plans address the concerns she had about the project and noted that the public access and public health benefits of improving this playground should also be considered as mitigation for wetland impacts.

Mr. Gambino asked if the new drainpipe discharge could be shifted to the west to reduce the area of the isolated wetland involved in its installation. Mr. Stake responded that doing so would require more grading that would adversely affect the impact of the project on the base flood elevation. Mr. Stake also noted that the new playground will have a useful life of 25+ years.

In response to a question from Mr. Stone, Mr. Stake acknowledged he had received a copy of the Supplemental Agenda Summary Report and had no questions, comments, or objections.

Hearing no further comments Mr. Stone asked for a motion from the Board.

Motion/Vote: Upon a motion by Dr. Shemitz and second by Mr. Gambino, the Board voted to **APPROVE** EPB Permit No. 2023-18 subject to the 14 conditions outlined in the Agenda Summary Report dated November 13, 2023 with the edit of condition number 7 changing the word “west” to “south”.

In Favor: Stone, Shemitz, Gambino, and Romas
Opposed: Tessier
Abstaining / Not Voting: None

MOD #1911 – 128 North Stamford Road – David Devin

Dredge a watercourse and reconstruct a weir and retaining wall on property within the non-drinking water supply watershed of Poorhouse Brook. The property is located along the west side of North Stamford Road, across from the intersection of North Stamford and Cascade Roads, and is identified as Lot B, Account 004-2096, Card N-010, Map 36, Block 387, Zone RA-1, and is ± 3.532 Acres.

In Attendance: David Devin

Discussion: Mr. Clausi noted the substance of this application will not be discussed until additional information that has been requested by Environmental Analyst Lindsay Tomaszewski has been submitted by the applicant, but the applicant would like to know if the board members have any questions or comments about the application at this time. Upon polling the members, no questions or comments were raised, so this item was tabled without board action.

#2023-20 – 191 Erskine Road (Account 999-0512) – Windermere on the Lake Association, Inc.

Dredge a pond on a property located within the drinking water supply watershed of the Mianus River (East branch). The pond is located on the south side of Lake Windermere Drive and west of Erskine Road and is approximately 2,800± square feet in size. The property is identified as a condominium association, Account 999-0512, Card N-010, Map 23, Block 400, Zone RD, and is ± 47.9 Acres.

Attendance: Craig Flaherty, P.E., Redniss and Mead

Discussion: A summary of the application offered by Ms. Chapman provided details of the project, and discussed the impacts to the area from the work to be performed.

Mr. Stone asked the members for their comments on the applicant’s proposal. Several members said they had no comments before Dr. Shemitz stated she was concerned about the arsenic levels found in the pond sediment and the possibility that this toxin might become airborne as the sediment dries.

Mr. Flaherty, representing the applicant, stated that the sediment will be pumped into a geotextile dewatering tube where it will remain until dry. The dry sediment will then be retested and if the arsenic level remains above the residential reuse limit it will be properly disposed of off-site per CT DEEP guidelines rather than being spread in a meadow area as proposed. Ms. Tessier asked if the applicant would be willing to forego the option of on-site disposal and Mr. Flaherty replied he could not answer that question without conferring with his client. Mr. Stone asked if the EPB has the authority to overrule DEEP when it comes to levels of arsenic, to which Mr. Clausi answered “no”.

Ms. Tessier questioned if the sediment had been tested for PFAS. Mr. Flaherty said that it had not. Ms. Tessier then asked if the pond was natural or man-made. Mr. Flaherty noted the pond was created at some point before the Lake Windermere development took place. In response to another question from Ms. Tessier, Mr. Flaherty stated potable water in the Lake Windermere development is from the public supply system, not wells.

After some more general discussion about sediment testing and disposal, Dr. Shemitz put forward a motion to DENY the application due to the description of the soil testing provided by applicant, which she stated is inadequate, and the absence of an acceptable soil management plan. Ms. Tessier seconded the motion. The motion failed on a vote of 2 to 3 (Dr. Shemitz and Ms. Tessier in favor; Mr. Stone, Mr. Gambino, and Mr. Romas opposed).

Mr. Stone then invited another motion from the Board.

Motion/Vote: Upon a motion by Mr. Gambino and second by Mr. Romas, the Board voted to **APPROVE** EPB Permit No. 2023-20 subject to the 12 conditions outlined in the Agenda Summary Report dated November 9, 2023 with an additional condition that the results of the sediment retesting will be provided to EPB staff and if any results are above the Residential Direct Exposure Criteria found in the CT DEEP Remediation Standard Regulations, the sediment shall be disposed off-site at a facility licensed to manage such material.

In Favor: Stone, Gambino, and Romas
Opposed: Shemitz and Tessier
Abstaining / Not Voting: None

➤ **SUBDIVISION REVIEWS:** None

➤ **SITE PLAN REVIEWS:** None

➤ **SHOW CAUSE HEARINGS/ENFORCEMENT:**

46 Bird Song Lane – Trevor Arthur and Heather Williams

Unauthorized construction of boulder retaining walls with associated fill in wetlands and upland review areas.

In Attendance: No one

Discussion: Mr. Clausi noted that a signed agreement between the property owners and D’Andrea surveying has been submitted, with a December 18th estimated completion date for the topographic survey of the area in question. This item was tabled without board action

➤ **OTHER BUSINESS:**

Mr. Clausi gave several brief updates to the members:

- The second batch of letters to new owners of properties that do or may contain wetlands, watercourses, and/or upland review areas was mailed following last month’s meeting.
- A draft GIS map showing the approximate location of wetlands, watercourses, upland review areas, and wetland soil types was emailed to the members on November 14th. Mr. Clausi asked the members to provide him with any suggestions they may have on the map,

especially improvements to the disclaimer. In response to a question from Mr. Clausi, the members expressed their preference that this map be posted as a general reference rather than be adopted as Stamford's Official Inventory Map.

- Jaclyn Chapman and Lindsay Tomaszewski attended the Connecticut Association of Conservation and Inland Wetland Commissions annual meeting on November 11th and they report the event was worthwhile. Mr. Clausi encouraged the members to take advantage of similar training and networking opportunities offered in the future. He also reminded the members that the Municipal Inland Wetlands Agency Comprehensive Training Program offered by CT DEEP is a free 8 module online course available at <https://portal.ct.gov/DEEP/Water/Inland-Wetlands/Training-for-Inland-Wetlands-Agencies> which can be taken at one's own pace.

➤ **ADJOURN:**

Motion/Vote: Upon a motion by Mr. Gambino and second by Ms. Tessier the Board voted to **ADJOURN** the Regular Meeting of November 16, 2023.

In Favor: Stone, Shemitz, Tessier, Gambino, and Romas
Opposed / Abstaining / Not Voting: None

Meeting adjourned at 9:33 p.m.

Gary H. Stone, Chairman
Environmental Protection Board