

**ENVIRONMENTAL PROTECTION BOARD
CITY OF STAMFORD
MINUTES OF THE NOVEMBER 27, 2018
SPECIAL MEETING**

BOARD MEMBERS PRESENT:

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

BOARD MEMBERS NOT PRESENT:

Louis P. Levine, Member

STAFF MEMBERS PRESENT:

Richard H. Talamelli, Executive Director/Environmental Planner
Pamela Fausty, Environmental Analyst

The Regular Meeting, which was called to order by the Chair at 7:30 PM, was held in the Training Room, 6th Floor, Stamford Government Center, 888 Washington Boulevard, Stamford, Connecticut, 06904-2152. The meeting was video recorded.

MINUTES:

Minutes of the EPB Regular Meeting of July 19, 2018:

The Board considered the minutes of the EPB's July 19, 2018 Regular Meeting. Members present and eligible to vote were Mr. Stone, Dr. Shemitz and Ms. Tessier. 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 July 19, 2018 Regular Meeting as presented.

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

Minutes of the EPB Regular Meeting of October 18, 2018:

The Board considered the minutes of the EPB's October 18, 2018 Regular Meeting. Members present and eligible to vote were Mr. Stone, Mr. Rosenfeld, Ms. Ley, Ms. Tessier, and Ms. Gordon. No corrections were proposed/recommended.

Minutes

Special Meeting of November 27, 2018

Page 2, December 26, 2018

Upon a motion by Ms. Ley, and seconded by Mr. Rosenfeld, the Board voted to **APPROVE** the Minutes of the October 18, 2018 Regular Meeting as presented.

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

APPLICATIONS AND PERMITS:

Acceptances/Extensions/Withdrawals:

#1819 – 1333 Rock Rimmon Road – Lot 13 - J. and E. Holm: To construct residential additions and other related features within close proximity to wetlands and watercourses situated in the drinking water supply watershed of the East Branch of the Mianus River. The property lies along the north side of Rock Rimmon Road, approximately 765 feet east of Old Long Ridge Road, and is identified Lot 13, Account 000-5438, Card E-083, Map 7, Block 403, Zone RA-2 and ± 0.911 Acres.

#1820 – 38 Tall Oaks Court – Lot 24 - M. DeGiorgio: To maintain a stone patio, staircase, retaining wall, playset and other related features within close proximity to wetlands and watercourses situated in the drinking water supply watershed of the East Branch of the Mianus River. The property lies along the west side of Tall Oaks Court, approximately 1000 feet south of Tall Oaks Road, and is identified Lot 24, Account 000-2433, Card W-003, Map 32, Block 399, Zone RA-1 and ± 1.08 Acres.

#1822 – 88 Farms Road – Lot 1 – Frangione Engineering, LLC for M. E. Simpson: To replace an existing fence and maintain a shed within close proximity to wetlands situated in the drinking water supply watershed of the Mianus River. The property is situated along the south side of Farms Road, approximately 1000 feet west of Riverbank Road, and is identified Lot 1, Account 000-3456, Card S-004, Map 47, Block 395, Zone RA-2 and ± 2.016 Acres.

#1823 – 15 Dann Drive – Lot 88 – Frangione Engineering for W. J. Britt – Trustee to I. F. Apicella: To install streambank stabilization measures, a fence and other related features within close proximity to wetlands and watercourses and within the base floodplain of Toilsome Brook. The property lies along the east side of Dann Drive, approximately 200 feet north of Oaklawn Avenue, and is identified Lot 88, Account 002-4840, Card E-017, Map 104, Block 324, Zone R-7.5 and ± 0.22 Acres.

#1824 – 57 Acre View Drive – Lot 27 - Redniss and Mead, Inc. for MONS, LLC: To remove a failing septic system, implement slope stabilization measures, modify drainage, and install other related feature in and proximate to wetlands situated in the non-drinking water supply watershed of Poorhouse Brook. The property lies along the east side of Acre View Drive, approximately 775 feet north of High Ridge Road, and is identified Lot 27, Account 000-8282, Card E-004, Map 27, Block 388, Zone RA-1 and ± 1.036 Acres.

Reference is made to EPB Staff Memos dated November 6, 2018 (#1823), November 13, 2018 (#1819 and #1820), November 21, 2018 (#1824), and November 27, 2018 (#1822).

Minutes

Special Meeting of November 27, 2018

Page 3, December 26, 2018

In Attendance: None

Discussion: Mr. Stone acknowledged the receipt of correspondence from Elizabeth Holm, dated November 5, 2018 (#1819), Michelle DeGiorgio, dated November 8, 2018 (#1820), Robert Frangione, dated November 25, 2018 (#1822), Robert Frangione, P.E., dated November 2, 2018 (#1823) and Teodoro Milone, P.E., dated November 19, 2018 (#1824) granting the Board extensions of the statutory deadlines for decision on EPB Permit Application Nos. 1819, 1820, 1822, 1823 and 1824.

Motion/Vote: None

#1827 – 113 Wallacks Drive – Lot A - D. Stuckey: To construct a pedestal electric panel on a raised platform, electrical conduits, wood chip pathway and related features within a designated conservation easement and special flood hazard area situated in the watershed of the Southwest Shoreline. The property lies along the west side of Wallacks Drive, approximately 1,250 feet south of Soundview Avenue, and is identified Lot A, Account 004-2175, Card W-006B, Map 135, Block 150, Zone RA-1 and ±1.31 Acres.

#1828 – 206 Riverbank Drive – Lot D6 - Redniss and Mead, Inc. for P. Landes: To replace a wood deck situated within close proximity to wetlands situated in the drinking water supply watershed of the Mianus River (East Branch). The property lies along the west side of Riverbank Drive, approximately 440 feet south of Shelter Rock Road, and is identified Lot D6, Account 002-9869, Card N-015, Map 56, Block 394, Zone RA-1 and ±1.22 Acres.

Reference is made to an EPB Staff Memo as to both applications, dated November 27, 2018.

In Attendance: None

Discussion: Mr. Stone acknowledged the receipt of the minimum information necessary to accept EPB Permit Applications No. 1827 and 1828.

Motion/Vote: Upon a motion by Mr. Rosenfeld, and seconded by Ms. Ley, the Board voted to **ACCEPT** EPB Permit Applications No. 1827 and 1828.

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

Action Items:

#1816 - Green Street, Hanrahan Street, Adams Avenue, and West North Street – NA – City of Stamford, Mill River Greenway Phase II: To construct a 12 foot wide, 2,300 liner foot long multi-use trail including storm water drainage, a pedestrian bridge, sidewalks, and other related improvements in and/or proximate to wetlands, watercourses and special flood hazard areas in the non-drinking water supply watershed of the Rippowam River. The project begins at the intersection of Green and Hanrahan Streets, extends north along the west side of the Rippowam River across the

Minutes

Special Meeting of November 27, 2018

Page 4, December 26, 2018

Hart Magnet Elementary School property, across West North Street, and through the Cloonan Middle School property, ending in the vicinity of the Scalzi Park sidewalks, just south of the existing pedestrian bridge over the river.

Reference is made to an EPB Staff Agenda Summary Report, dated November 19, 2018.

In Attendance: Michael Joyce, P.E., Milone and McBroom
Erin McKenna, Associate Planner, City of Stamford
Robin Stein, Special Assistant to the Mayor, City of Stamford

Discussion: Staff Member Fausty offered a brief description of the permit application and a summary of pertinent issues for the Board. She reported that the City of Stamford proposes to construct a multi-use trail, including storm water drainage, a pedestrian bridge, sidewalks, fences, and other related improvements along a reach of the Rippowam River from approximately Green and Hanrahan Streets to Scalzi Park. The improvements, which affect both public and private properties, are linked to the Mill River Greenway. Development issues generally relate to potential resource impacts, hydraulic effects, structural floodproofing, drainage impact, sedimentation and water quality control and the value of any proposed conservation enhancements. The applicant reports that the improvements will temporarily/permanently affect approximately 24,675 square feet of the non-drinking water supply watershed upland review areas and 52,435 square feet of the floodplain. There are no direct wetlands or watercourse impacts proposed. Most of the project is confined to historically altered upland areas. Grade change has been minimized and the extent of tree impacts has been lessened under the direction of a Connecticut Arborist. The project engineer has verified that the proposed improvements will not cause a rise in flood heights per the City standards and there is a net increase in flood storage as a result of the construction. Structures have been designed to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood per Stamford's Flood Prone Area Regulations. The project engineer has further verified that there will be no adverse impacts on drainage or abutting properties/infrastructure given the anticipated reductions in paved parking and the addition of structures to better collect and manage stormwater. Water quality will be enhanced with the implementation of an erosion control plan, the addition stabilized outfalls, the addition/replacement of deeply sumped catch basins, oil separators, and rain gardens. Mitigative measures include provisions for the removal of debris, management of existing tree resources, invasive species control, and displacement of lawn or areas of historic encroachments with a variety of native plantings. Many of the proposed trees and shrubs are valued for their conservation properties. The Mill River Collaborative will coordinate the planting and maintenance of the space.

In response to concerns raised by Ms Tessier concerning the size and overall survivability of the mitigation planting, Michael Joyce, P.E., Milone and McBroom, confirmed that that the landscaping warranty could be extended at the request of the City to ensure that the plantings grow, mature and remain viable. Typically, landscape maintenance agreements are not applied to City projects.

Motion/Vote: Upon a motion by Ms. Ley, and seconded by Mr. Rosenfeld, the Board voted to **APPROVE** EPB Permit Application No. 1816 with the conditions outlined in the EPB Staff Agenda Summary Report, dated November 19, 2018, modified to include a new condition (No. 12) requiring the extension of the plant warranty for a period of three (3) years.

In Favor: Stone, Shemitz, Rosenfeld, Ley, and Gordon
Opposed: None

Minutes

Special Meeting of November 27, 2018

Page 5, December 26, 2018

Abstaining: None
Not Voting: Tessier

Site Plan Reviews: None

Subdivision Reviews:

4035 – 0 June Road – Lot 4A – Home Sweet Home, LLC: Subdivision of an existing ±31.75 acre property into three (3) parcels capable of supporting residential development. All subdivided parcels are expected to be served by wells and individual subsurface sewage disposal systems.

Reference is made to an EPB Staff Agenda Summary Report, dated November 19, 2018.

In Attendance: Jay Fain, Jay Fain Associates
Louis DiMarzo, DiMarzo and Berzerky
Edward O'Hanlon, Esq., Robinson and Cole

Discussion: Mr. Talamelli summarized the subdivision application for the Board. He reported that the applicant, Home Sweet Home, LLC, proposes to subdivide the existing ±31.75 acre property into three (3) parcels capable of supporting residential development. All subdivided parcels shall be served by individual wells and subsurface sewage disposal systems.

The parcel lies along the north side of June Road, just east of Howard Road, and is currently "undeveloped", supporting only horse and bridle trails. The property is resource rich, characterized by the presence of gently to severely sloping wooded uplands, wooded wetlands, several intermittent/perennial watercourses, stone walls, and many large trees. The property, which lies in the drinking water supply watershed of the Mianus River, abuts lands currently held as open space by the State of Connecticut (Mianus River Park). Note that the property is deed restricted, limiting development to three (3) residential properties.

Mr. Talamelli noted that the applicant is charged with the task of demonstrating that the property can reasonably support residential development, subsurface sewage disposal systems, wells and other related features with an acceptable impact upon resources, water quality, drainage and other factors. To this end, conceptual site development plans provided by the applicant confirmed that construction can be confined to the more gently sloping uplands situated outside of regulated areas. Grade change is expected to lie in the low to moderate range. Up to 215 of the trees found on the property may be affected by the proposed development. To assess the potential impact the subdivision may have on drainage, soils and abutting parcels, the applicant has provided a detailed drainage analysis. Development of the property with three (3) sizable homes, drives, walkways, and other related features is expected to result in an increase in overall site imperviousness and changes to the cover/character of the property, and if left unmitigated, will result in an increase in storm water runoff. Accordingly, the applicant proposes to mitigate the potential increase by implementing a storm water management plan that creates/manages numerous post-construction basins through grading and the installation of structured drainage facilities on all parcels. The mitigating structures consist of catch basins, pipes, junctions, weir structures, infiltrators, level spreaders, swales, and/or stabilized outfalls. If constructed per the submitted design, the engineer has stated that there would be either no increase or more likely, a decrease in peak flows at all points of concern for the 1, 2, 5 and 10-year design storms. Accordingly, the engineer has concluded that the project would not have any adverse

Minutes

Special Meeting of November 27, 2018

Page 6, December 26, 2018

impact on local drainage or adjacent properties. Engineering Bureau Staff has confirmed study methodology, conclusions of the report, and the design concept. In regards to sewage disposal, Stamford Health Department Staff has confirmed that the soils are capable of supporting wells and subsurface sewage disposal systems for six (6) bedroom systems on all parcels as depicted on the conceptual plans. Accordingly, the Health Department offered no objection to the subdivision with numerous conditions. Water quality concerns have been addressed with the submission of a temporary and permanent erosion control plan, drainage collection structures equipped with deep sumps and bell traps, drainage systems that rely on infiltration, and the owners commitment to consider alternative energy systems or fuel oil based systems having advanced leak and spill protection. Mr. Talamelli went on to summarize the conservation measures incorporated in the plan. An arborist inspected trees on the property, noting that the site is heavily and uniformly wooded, and that there are no specific trees or grouping of trees that draw special attention and that would call for preservation. The arborist recommended that a tree protection plan be developed for each lot prior to development. To protect resources and address the open space needs of both the property and community, the applicant proposed a conservation easement for approximately 3.58 acres of space including a portion of the wooded upland, a portion of the wooded wetlands, several watercourses, and some stone walls. The conservation easement includes space that abuts Mianus River Park. The limits of the easement shall be pinned and posted with standard signage at both property boundaries and turning points in the easement boundary.

Mr. Talamelli went on to state that the applicant has reasonably demonstrated that the property can be subdivided, and is capable of supporting three (3) single family residences, usable yard space, septic, wells, and other related facilities with an "acceptable" impact on water quality, drainage and adjoining properties. However, Mr. Talamelli stated that the open space/conservation designation proposed by the applicant is not appropriate, and will not provide adequate, long term, protection for all wetlands, watercourses and other important resources found on the parcel. Many of the "regulated areas" had been omitted from the proposed conservation areas, and these areas could be subject to future development and impact if not included in the easement at this time. Mr. Talamelli recommended that the open space/conservation easement be revised to include additional wetlands and watercourses and the drinking water supply watershed setbacks defined in the "Inland Wetland and Watercourse Regulations." These setbacks, which were commonly applied to other subdivisions of similar circumstance, include adjoining upland areas of no less than fifty (50) feet to wetlands and one hundred (100) feet to watercourses (perennial). The Staff recommended the open space further include a "pocket of uplands" situated between the branching perennial watercourses along the north property boundary, which are important given the proximity to other parks and open lands. In addition, EPB Site Plan Reviews were recommended for each parcel prior to building permit to ensure consistency with the subdivision concept and confirm the use of thoughtful measures to limit drainage and water quality impacts, protect trees of value, and define the adopted conservation spaces. Finally, any approval should include a clear prohibition on the use of in-ground fuel oil tanks given the restrictive nature of the soils, the resources present, and the typical water quality concerns for the watershed (Mianus River). Mr. Talamelli noted that the proposed recommendations have been reflected in the proposed conditions outlined in the Agenda Summary Report of November 19, 2018.

Jay Fain and Edward O'Hanlon, Esq. addressed the Board, acknowledging the prior receipt of the Agenda Summary Report and generally agreeing with Staff's written findings and recommendations. The exception related to Staff's recommendation for the expanded open space preserve/conservation easement. The applicant's representatives stated that given the conceptual nature of the subdivision plans, the final configuration of the open space/conservation easement would best be determined at a

Minutes

Special Meeting of November 27, 2018

Page 7, December 26, 2018

future date when final house plans and/or property uses are further defined. It was stated that the expanded open space was premature and excessive, affecting nearly thirteen (13) acres.

Extensive discussion ensued between Board Members concerning the conservation value of the site given its resources and proximity to both the Mianus River and other dedicated open lands, the conservation and aesthetic qualities of stone walls, the value of unsegmented stands of forestland, the necessity of an expanded open space/conservation area to protect wetlands, watercourses, buffers, woodlands, and other important areas of resource, and the availability of alternative development scenarios and/or lot line configurations to reduce the potential for resource impacts, diminish development footprints, and reduce site imperviousness. The undeveloped upland areas adjoining both June and Howard Roads were given special attention.

Motion/Vote: Upon a motion by Mr. Rosenfeld, and seconded by Dr. Shemitz, the Board determined to **OFFER NO OBJECTION** to Planning Board No. 4035 with the conditions outlined in the Agenda Summary Report, dated November 19, 2018 accompanied by specific comments highlighting the significant conservation values of the property given its resources and proximity to Mianus River Park, the importance of securing the expanded open space/conservation easement to protect resources, the value of maintaining stonewalls from a conservation perspective, and the necessity of embracing alternative design considerations to further protect resources, maintain the integrity of the wooded space, and reduce potential development impacts.

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

Enforcement – Status Reports & Show Cause Hearings:

Enforcement – 755 Long Ridge Road – Lot C – S. Morales, et al: Show Cause Hearing to consider testimony concerning certain violations of the “Inland Wetland and Watercourse Regulations of the City of Stamford (Section 4.1) at 755 Long Ridge Road, Stamford, Connecticut including the unpermitted storage of materials and debris and the installation of certain accessory structures, fences and other related features in and/or proximate to wetlands, watercourses, and special flood hazard areas. The property lies along the east side of Long Ridge Road, approximately 400 feet north of Barnes Road, is identified as 755 Long Ridge Road, Lot C, Account 002-2274, Card E-060, Map 82, Block 359, Zone R-20, and +31,363 square feet.

Reference is made to and EPB Staff Memo, dated November 19, 2018.

In Attendance: Cesar Valasquez

Discussion: Staff Member Talamelli summarized the violation for the Board. Mr. Talamelli reported that in April 2018, EPB Staff determined that materials had been deposited and certain accessory structures, fences, and related features had been installed in and proximate to the wetlands, watercourses and special flood hazard areas on this parcel. There was no evidence of any permits for these items. The owners were advised, in writing, that wetlands, watercourses, non-drinking water supply watershed setbacks of 25 feet, and special flood hazard areas are “regulated areas” as

Minutes

Special Meeting of November 27, 2018

Page 8, December 26, 2018

defined in the “Inland Wetland and Watercourse Regulations of the City of Stamford” and that individuals wishing to conduct activities in “regulated areas” are required to secure a permit from the Environmental Protection Board (“EPB”) prior to the start of site activity. Without a prior permit, owners and individuals authorizing or participating in the unauthorized “regulated activities” may be subject to an enforcement action. In June 2018, a second written notice was sent to the owners concerning these encroachments. In response, owner met with EPB Staff to discuss the violation. The owner was directed to secure a current survey as the means to confirm the encroachments and develop a pathway to compliance, either by removing the structures/features or by applying for and securing a permit from the EPB to maintain the structures, features and other pertinent items. In November 2018, it was determined that the owner had yet to provide a survey, remove the unpermitted structures/features, or supply an EPB Permit application. Accordingly, EPB Staff petitioned the Board to issue a Cease and Desist Order. Issuance of the order was endorsed by a majority of the Board Members, and a Show Cause Hearing was scheduled in accordance with the requirements of the regulations. Mr. Talamelli recommended that the Board maintain the order in effect and modify the order to require certain corrective actions including the removal of the encroachments within sixty (60) days of this hearing, a verification inspection, and landscaping enhancements as necessary to stabilize the soil and remedy the impact of any encroachments in the regulated areas. Staff further requested the immediate filing of a violation notice on the land records and the ability to pursue further enforcement actions per the regulations if the matter was not fully and properly resolved in the manner and time frame recommended by Staff.

Mr. Velasquez, an owner of the premises, addressed the Board. He stated that he was unaware of the regulations and the potential implications of his actions. He noted that a basic survey has been developed, but has yet to determine if compliance would best be achieved through the EPB permit process or the removal of some or all of the encroachments. Mr. Velasquez reported that the fence provides an important barrier, limiting the children’s access to the river. Mr. Stone indicated that further conversations with both EPB Staff and his consulting engineer/surveyor may clarify the requirements of the regulations and the permit process.

Extensive discussion ensued between Board members and Staff concerning compliance options.

Motion/Vote: Upon motion by Mr. Rosenfeld, and seconded by Ms. Ley, the Board voted to **MAINTAIN** the Cease and Desist Order **IN EFFECT** and **MODIFY** the order to require the owner to act as follows:

- **Remove** all materials, debris, structures, fencing, fill, and other related features from the Regulated Areas within sixty (60) days of this hearing (January 26, 2019); Arrange for an inspection of the premises upon completion to verify the full and proper removal of the encroachments; and, as necessary, Restore affected areas with appropriate vegetative cover as directed by EPB Staff.

OR

- **File** a complete EPB Permit Application to maintain some or all of the materials, debris, structures, fencing, fill and other related features in the Regulated Areas within sixty (60) days of this hearing (January 26, 2019).

Minutes

Special Meeting of November 27, 2018

Page 9, December 26, 2018

EPB Staff was further authorized to file a notice of violation on the Stamford Land Records, publish a notice of facts and conduct in a newspaper having general circulation in the City of Stamford, and notify the Corporation Counsel to pursue all necessary actions to gain compliance, if the violations were not resolved in the manner and time frame outlined above.

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

Other Business: None

ADJOURN:

Adjourn the Special Meeting of November 27, 2018:

There being no further business, the Board, upon a motion by Mr. Rosenfeld, and seconded by Ms. Tessier, the Board voted to **ADJOURN** the Special Meeting of November 27, 2018.

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

Meeting adjourned at 9:17 PM.

Gary H. Stone, Chairman
Environmental Protection Board

Minutes Prepared from Meeting Notes assembled by Richard Talamelli, Executive Director/Environmental Planner.

Draft 1: December 17, 2018
Draft 2: December 26, 2018