



State of Connecticut

FIVE MILE RIVER COMMISSION
P.O. BOX. 119
ROWAYTON, CONNECTICUT 06853

May 18, 2020

VIA EMAIL (jginsberg@darienct.gov)
Darien Planning & Zoning Commission
Darien Town Hall
2 Renshaw Rd.
Darien, CT 06820

Attn: Mr. Jeremy Ginsberg, P&Z Director

Re: Supplemental Decision: Coastal Site Plan Review: 14 Raymond St. (Stephens)

Dear Mr. Ginsberg:

The Five Mile River Commission supplements its February 23, 2020 decision objecting to the "Coastal Site Plan Review #165-A/Flood Damage Prevention Application #173-A" ("the application") submitted by Lawrence Stephens ("the Applicant") for 14 Raymond Street, Darien, as set forth below:

1. The Commission's fundamental objection to the application, as explained in our February 23rd decision, was that "the proposed dock, as configured and sited, will directly impede and possibly prevent recreational usage of the river near the site during most stages of the tide."
2. In its decision, the Commission stated: "if the Applicant or any other stakeholder wishes to present additional evidence regarding the Commission's findings or this revised decision, the Commission invites all such parties to make written and oral submissions at its March 26th meeting..., and to notify the Commission of their intention to do so no later than March 1, 2020." Both the Applicant and Dr. Pereira provided the Commission with copies of their

written submissions to the DEEP. Thereafter, the DEEP modified the applicant's original license on May 12, 2020, and conditioned approval on the applicant's agreement not to dock his boat(s) on the north or east side of the proposed float. The Commission has reviewed the relevant submissions and responds briefly herein.

3. On 2/26, the applicant confirmed that after receiving additional survey information related to navigation adjacent to the dock, he would "explor[e] the possibility of relocating the proposed dock." Nonetheless, he later rejected that option, stating: "[m]oving the dock to the middle of the property will put it on top of the sand bar. This will have no beneficial impacts on navigation, and will greatly diminish the tidal access afforded by the proposed dock." (April 29th email from John Hilts to multiple recipients). Thus, by his own admission, the applicant has rejected relocating the proposed dock and using the dock/boat lift configuration that other property owners in the area use. Accordingly, the issue in dispute remains whether the proposed dock will improperly impact the applicant's neighbors' use of the adjacent sections of the Five Mile River.

4. As a threshold issue, we note the applicant's neighbor, Dr. Pereira, argues that the proposed location of the dock violates the DEEP's 25/50/25 standard limiting the distance of a proposed dock in relation to the near shore at MHW. The applicant disputes the claimed encroachment. Moreover, without deciding the issue, the DEEP's licensing modification attempts to mitigate the possible encroachment and resulting impact on navigation by barring the applicant from docking any boats on the north or east side of the proposed float.

5. Unfortunately, the DEEP's new docking restrictions reveal a basic and unavoidable problem with the application—that the proposed dock is located in the wrong place at the edge of the applicant's property. Indeed, the DEEP acknowledges the dock's impact on navigation, but minimizes it by suggesting the float "would restrict navigation no more than the width of the natural channel in front of Dr. Pereira's property." The Commission respectfully disagrees with this assessment, as it disregards the dock's disruptive impact jutting out from the contours of the river into a navigable area (under certain tidal conditions). More significantly, had the DEEP followed its own guidelines by requiring the applicant to re-locate the proposed dock further to the south, near the midpoint of his property, there would be little or no impact on navigation and no need to impose this restriction on the applicant's use of the dock. The Commission genuinely appreciates the DEEP's effort to impose usage restrictions, and, in other circumstances, believes the restrictions would be appropriate. But here, we respectfully believe there are other, simpler options.

6. Accordingly, the Commission continues its objection and urges Darien P&Z to deny the application based on the fact that the dock, as configured and sited, will directly impede recreational usage of the river to the detriment of other Darien property owners.

Please let us know if you have any questions.

Very truly yours,

/s/

Five Mile River Commission
By Matthew A. Marion, Chairman

cc: Ms. Susan Jacobson, DEEP (susan.jacobson@ct.gov)
Mr. Kevin R. Kotelly, PE (kevin.r.kotelly@usace.army.mil)
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