

STAFF QUESTIONS

1. There's a lot going on with this proposal. This house was initially built in 1952, with additions in 1956, 1979 and 1996. Previous variances were granted in 1952, 1979 and 1995. Significant portions of the house are below the current minimum floor elevation. Flooding did occur into the lower living space during the Sandy storm, which did not reach 100 year storm prediction level. The entire existing house is located in a FEMA engineers identified flood zone. And a sunroom portion of it, closest to the water, is in a more impactful and more restrictively regulated Velocity flood zone. Zoning Enforcement Officer Dave Keating has provided the attached memo clarifying how the applicable flood zone regulations are enforced. And that has determined how the project Legal Notice is described with the variances involved for ZBA consideration.
2. 5 separate variance issues are involved within the flood zone and zoning setbacks. The construction of a foyer/powder room, staircase, raised equipment platform, reconstructed sunroom, and second floor balcony/walkway additions. The Assessor determined appraised value of the existing house is \$955,520. If the construction cost of all of the proposed project work (determined by the Building Official) exceeds \$477,760 (50% of the appraised value) another ZBA variance would be required to keep the existing features located below the minimum floor elevation. That variance has not been requested. Is the applicant sure the project cost will not exceed 50% of the house value?
3. Due to the sensitive nature of, and apparent controversy with, granting variances in flood zones which may increase future property loss, this application was referred to the State DEEP analyst for comment. The referral comments are attached. Significant concern about the overall value of the project is cited. And the basic recommendation is to hold on consideration of the requested variances until a more definitive determination of the project value is determined. Does that indicate this hearing should be Continued to a future meeting? September 16 is the next scheduled meeting.
4. Regarding the construction of a foyer/powder room addition. This new entry area space would be sizable at 430 square feet roughly 28' wide and 15' deep. Part of it would be open above to a new master suite addition area. In addition to the foyer and powder room it would have closets and connections to a new up and down staircase and an existing bedroom. This addition is proposed to match the existing house floor elevation of 13.0' above mean sea level. The minimum applicable regulation floor elevation is 16.0'. An interesting argument is made that the 16.0 is

the result of the closer to the water back sunroom located in the V flood zone which determines the whole house minimum elevation. And this subject foyer+ addition is located in the less restrictive A flood zone portion that would normally have a minimum 14.0 elevation. The argument is that if the sunroom was demolished that would remove the house from the V zone standard and 14.0 would apply for this addition. So, why not add a couple more steps up into this addition and at least conform with the 14.0 minimum elevation? Considering the entry area size and what it connects to, including a new up and down staircase, would there be any significant problem stepping down from a slightly higher foyer into the existing floor space?

5. A useful onsite demonstration has been provided. At the proposed entry foyer+ addition area, horizontal yellow tape has been installed depicting the existing and proposed floor elevation of 13.0 and the regulation applied 16.0 and the possibly applied 14.0 elevation levels.
6. Regarding the construction of a new staircase in the flood zone. This is proposed from the new entry elevation of 13.0' down to the existing lower level elevation of 9.8'. Since this staircase provides access to and from lower living space it does not qualify as a simple basement level entry space exempt from flood regulations and the minimum floor elevation. Although it connects to a hallway and garage area also, it serves significant living space and it is vulnerable to future flooding damage loss. Since this staircase would replace an existing staircase, is it acceptable? If so, should a flood insurance requirement be stipulated?
7. Regarding the construction of a raised equipment platform. The existing platform is in a house niche within the south side setback. There may be resulting echo noise. The adjacent owner, Connor, does not object to the equipment change. The Connor property is large at 3.2 acres and their existing house is about 200' away. So a future division could result in another lot and house close to this equipment. Considering the extent of the overall project could the equipment be relocated to a conforming location? That could be within the entry court next to an existing generator, or at the end of the northeast wing of the house on a new platform there. The proposal is to raise the existing platform to meet the minimum flood elevation and it would be enlarged to accommodate updated larger equipment. Some lattice is currently around the equipment. If the proposal is acceptable should a stipulation require sound deadening materials to be installed to reduce potential negative effects to the neighboring property?
8. Regarding the reconstructed sunroom. The existing room is in the 40' rear setback near the water, but no other houses. The proposal is to raise the walls with new windows and replace a pitched roof with a flat deck and railings. Would that increase or decrease volume in the setback? If acceptable are there any stipulations that would be helpful, such as limits on lighting shining out toward the water?

9. Regarding the second floor balcony/walkway additions. This would provide access from the new master bedroom suite across the back of the house to the sunroom roof deck. It would be partially in the 40' setback. If acceptable are there any stipulations that would be helpful, such as limits on lighting shining out toward the water?
10. What equipment and/or other features currently located below the minimum floor elevation would be removed or lifted as part of the project to reduce future flood loss?
11. Is flood insurance maintained on the property now? If any variances are acceptable for the project should a routine flood advisory stipulation be included requiring the maintenance of proper flood insurance at all times?

# SCOTTY COVE



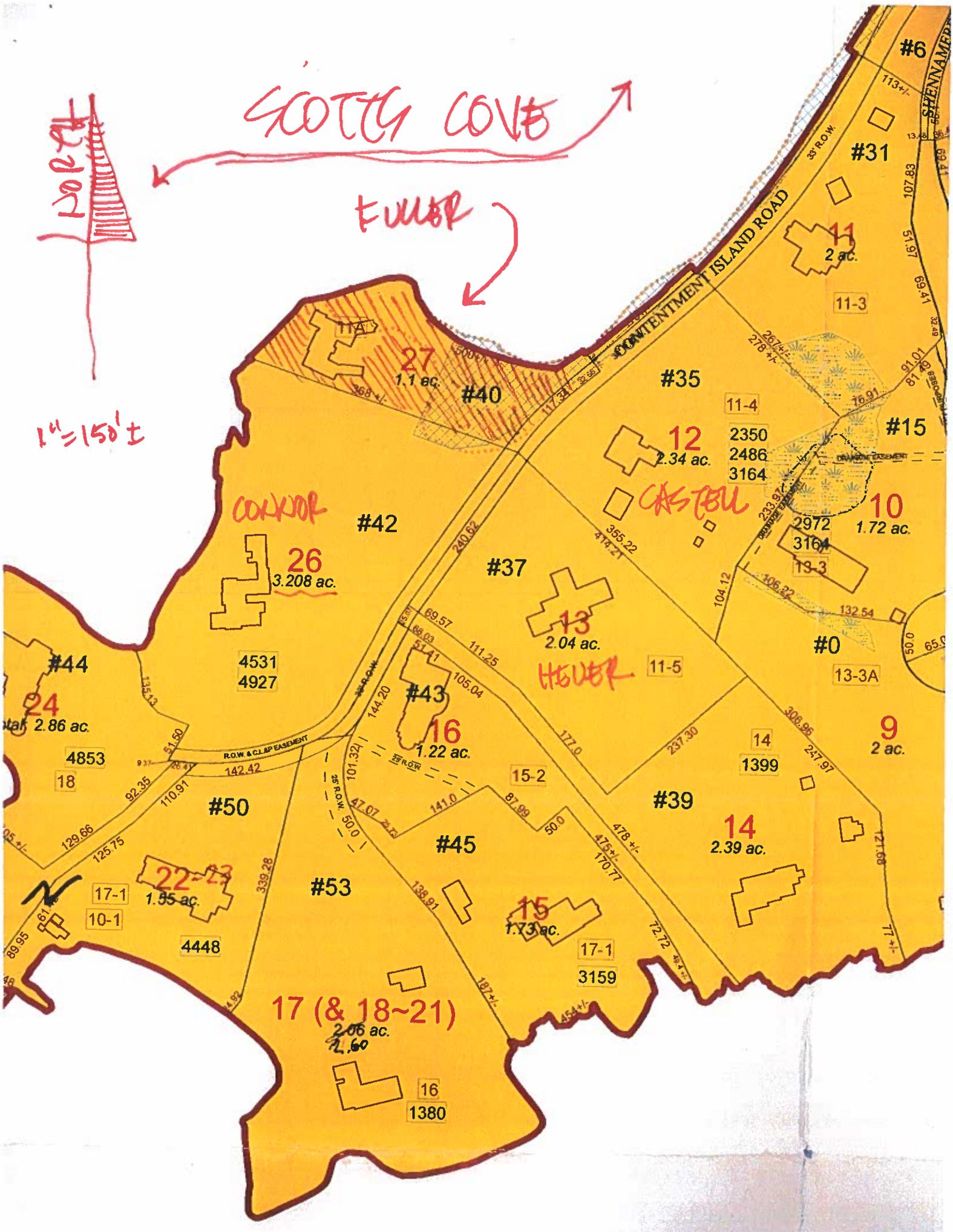
1" = 150' ±

FURBER

CONKOR

CASTLE

HUBER



## Memorandum

**TO: Robert Woodside**

**FROM: David Keating, Zoning Enforcement Officer**



**RE: Minimum FEMA Standards and Darien Zoning Requirements**

**DATE: July 8, 2020**

The Town of Darien has adopted Flood Damage Prevention provisions into Section 820 of the Darien Zoning Regulations. The Darien regulations meet or exceed the minimum requirements of the Federal Emergency Management Agency (FEMA) as part of the National Flood Insurance Program. Local requirements can exceed the minimum FEMA standards, but they cannot be less restrictive than the minimum FEMA requirements. Applicants must adhere to both the FEMA requirements and the Darien requirements, and if/when there is a difference, the applicants must comply with the more restrictive requirement. Similarly, if a structure is located in more than one flood hazard zone, for regulatory and insurance purposes, the entire structure is considered to be in the more restrictive of those flood zones.

The Flood Insurance Rate Maps (FIRMs) show various areas that the engineers have calculated are at a high risk of flooding, and thus structures and development in those areas are regulated to protect life and property. The most common regulated flood hazard area is Zone A, which has been calculated to have a 1% chance of flooding in any given year (formerly referred to as a 100 year design storm). One of the FEMA minimum requirements is that the top surface of any new floor space being created in a Zone A special flood hazard area must be elevated to be at or above the calculated, expected flood water, referred to as Base Flood Elevation (BFE). FEMA has strongly recommended, but not mandated, that communities like Darien adopt regulations that exceed the minimum FEMA requirement, and include a provision that the lowest floor be at least one or more feet above the BFE. In Darien, the Regulations have followed the FEMA recommendation and have included a requirement that the lowest floor must be at least one foot higher than the BFE.

The special flood hazard area designated as Zone V, assumes that wave velocity can impact and damage structures, thus, the requirements are even more stringent than in the Zone A. In Zone V, the FEMA minimum requirement is that the bottom of the lowest horizontal support member (usually the bottom of the floor beam or joist) needs to be above the crest of the wave. The Darien Regulations have followed the FEMA recommendation and have included a requirement that the bottom of the lowest horizontal support member must be at least one foot higher than the crest of the wave. The typical support beams and joists are about one foot from top to bottom. The Darien requirement that the bottom of the horizontal support be at least a foot above the crest of the wave, plus the thickness of the support beam, results in the floor in the Zone V being about 2 feet above the crest of the wave.

**Construction must comply with both the FEMA requirements and the Darien requirements, and if/when there is a difference, the more restrictive requirement is applicable. If a structure is in more than one flood hazard zone, the entire structure must comply with the more restrictive of those flood zones.**

**Eberhardt, Tamara**

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**From:** Ifkovic, Diane <Diane.Ifkovic@ct.gov>  
**Sent:** Thursday, July 9, 2020 12:57 PM  
**To:** Woodside, Robert; Eberhardt, Tamara; Ginsberg, Jeremy  
**Subject:** Re: 40 Contentment Island Road: Referral Request

**DEEP ENVIRONMENTAL ANALYSIS**

Woody, Tamara, Jeremy,

I have reviewed the materials provided to me for the ZBA application for **40 Contentment Island Road, Darien** (application, site plans, survey map). My comments focus on FEMA floodplain compliance (Section 820 Darien Zoning Regulations and associated definitions in Section 210) and not yard setbacks, which is also requested in the application.

The existing home is within flood zones VE14 and AE13. The existing sunroom is the only portion of the home that falls into the VE14 zone, however this brings the entire home into the VE14 zone for regulatory purposes as the most conservative zone applies. The remainder of the home is entirely in the AE13 flood zone. The home was built in 1952 but has had additions and renovations over the years.

The ZBA application focuses on the the proposed creation of a new front entry way, which includes a new powder room and staircase to a new second floor addition containing a master suite. It is stated that this project is not a substantial improvement. **However, all the proposed construction costs must added up to determine if a substantial improvement is occurring to the structure.** Based on the wording of the application, I am not sure that all the proposed construction costs have been taken into account in this determination. Based on the application description and plans, the proposed project includes, at a minimum:

- Modifying the existing sunroom roof
- Modifying the existing family room roof
- New second floor addition (master bedroom suite with bath, sauna, laundry and other amenities)
- Raising utilities onto an elevated platform
- Second floor balcony and walkway addition
- New entry way, powder room, foyer and staircase to second floor
- Extending the chimney
- New windows on the first floor
- Moving oil tanks and boiler

In Section 210 Definitions of Darien's zoning regulations, the definition of "Substantial Improvement" uses the "Market Value" of the structure, minus land value, and calculates improvements over a 3 year period. The definition of "Market Value" states that the town uses the latest tax assessment value to determine if a substantial improvement is occurring. Based on the online Darien tax assessor's information for this property, the assessment value of the structure, minus land value, on October 1, 2019 was \$671,440. This translates any project or group of projects costing \$335,720 or more would constitute a substantial improvement. If a substantial improvement is occurring, this would mean the whole structure would have to be brought up to compliance with VE zone standards. **Based on all the modifications and construction proposed above with this application, I would urge the town to confirm all costs and run a substantial improvement calculation before approving this project.** The proposed project is quite extensive and may be over the 50% threshold value of \$335,720.

The application states that utilities will be moved to a raised platform at elevation 13 feet to match the flood elevation (AE13). The State Building Code may require that the utilities be elevated to BFE+1ft, meaning 14 ft. I suggest checking with the local building official for requirements of the State Building Code for utilities in the floodplain. It is always wise to elevate utilities as high as possible above the flood elevation to save on repair costs and also keep utilities functional during a storm event.

Thanks you for the opportunity to comment on this application.  
diane

Diane S. Ifkovic  
State of Connecticut  
Department of Energy & Environmental Protection  
79 Elm Street  
Land & Water Resources Division, 3rd floor  
Hartford, CT 06106  
Phone: (860) 424-3537  
Email: [diane.ifkovic@ct.gov](mailto:diane.ifkovic@ct.gov)

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**From:** Woodside, Robert <[rwoodside@darienct.gov](mailto:rwoodside@darienct.gov)>  
**Sent:** Thursday, July 9, 2020 9:41 AM  
**To:** Ifkovic, Diane <[Diane.Ifkovic@ct.gov](mailto:Diane.Ifkovic@ct.gov)>; Eberhardt, Tamara <[teberhardt@darienct.gov](mailto:teberhardt@darienct.gov)>  
**Subject:** RE: 40 Contentment Island Road: Referral Request

Terrific. Appreciate your help.

**From:** Ifkovic, Diane [<mailto:Diane.Ifkovic@ct.gov>]  
**Sent:** Thursday, July 9, 2020 9:39 AM  
**To:** Woodside, Robert <[rwoodside@darienct.gov](mailto:rwoodside@darienct.gov)>; Eberhardt, Tamara <[teberhardt@darienct.gov](mailto:teberhardt@darienct.gov)>  
**Subject:** Re: 40 Contentment Island Road: Referral Request

Hi Woody,

You are in luck. I actually had to go into the office yesterday for a file review and I picked up the hard copy of the application you sent me. It is sitting here on my kitchen table. I was planning on reviewing it today. Give me a few hours, I will have comments by early afternoon.

diane

Diane S. Ifkovic  
State of Connecticut  
Department of Energy & Environmental Protection  
79 Elm Street  
Land & Water Resources Division, 3rd floor  
Hartford, CT 06106  
Phone: (860) 424-3537  
Email: [diane.ifkovic@ct.gov](mailto:diane.ifkovic@ct.gov)

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**From:** Woodside, Robert <[rwoodside@darienct.gov](mailto:rwoodside@darienct.gov)>  
**Sent:** Thursday, July 9, 2020 8:47 AM  
**To:** Eberhardt, Tamara <[teberhardt@darienct.gov](mailto:teberhardt@darienct.gov)>; Ifkovic, Diane <[Diane.Ifkovic@ct.gov](mailto:Diane.Ifkovic@ct.gov)>  
**Subject:** RE: 40 Contentment Island Road: Referral Request

Diane,  
Are you in your office nowadays?  
Have you had time to review this application? Do you need more time?  
I could still pass along your comments up to midday next Weds July 15. But they would be more useful for the owner and ZBA members to evaluate sooner. You know.  
Woody

**From:** Woodside, Robert  
**Sent:** Monday, July 6, 2020 8:21 AM  
**To:** Eberhardt, Tamara <[teberhardt@darienct.gov](mailto:teberhardt@darienct.gov)>; [diane.ifkovic@ct.gov](mailto:diane.ifkovic@ct.gov)  
**Subject:** RE: 40 Contentment Island Road: Referral Request

Diane,  
There's a lot going on with this application. The variance items requested are spelled out in Calendar No 12 on our attached Legal Notice. What's up is we want to distribute the application materials to our ZBA members this Thursday July 9 for the scheduled July 15 Public Hearing. And we'd like to include your referral comments if possible. If you need more time to respond, please let me know.  
Thank you,  
Robert Woodside  
ZBA Staff

**From:** Eberhardt, Tamara  
**Sent:** Monday, July 6, 2020 7:52 AM  
**To:** [diane.ifkovic@ct.gov](mailto:diane.ifkovic@ct.gov)  
**Cc:** Woodside, Robert <[rwoodside@darienct.gov](mailto:rwoodside@darienct.gov)>  
**Subject:** 40 Contentment Island Road: Referral Request

Dear Diane:

Please see attached submitted materials regarding 40 Contentment Island Road, Darien. A public hearing on this application has been scheduled for on or after July 15, 2020 at 7:00 p.m. in the Darien Town Hall and/or via GoToMeeting.

Please direct any questions or comments you may have on this application to Robert Woodside, copied here, by this Thursday, July 9, 2020. If you require additional information, please contact our office. A hard copy of these materials was mailed in late June.

Thank you,

Tamara Eberhardt  
Office Administrator  
Planning & Zoning Department  
Town of Darien  
(203) 656-7351

Situs : 40 CONTENTMENT ISLAND ROAD

List #: 08568

Class: SINGLE FAMILY RESIDENCE

Card: 1 of 1

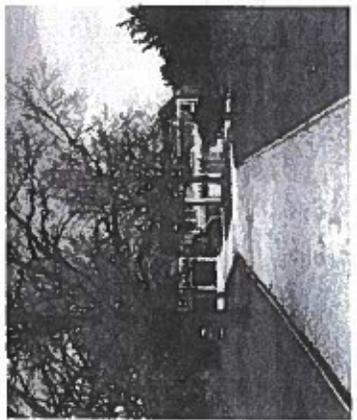
Printed July 19, 2019

**CURRENT OWNER**  
 FULLER SAMUEL B - TR ET AL  
 40 CONTENTMENT ISLAND ROAD  
 DARIEN CT 06820

**GENERAL INFORMATION**  
 Living Units 1  
 Neighborhood 1076  
 Map/Lot 68 27  
 Vol / Pg 1655/811  
 Routing 68/027  
 Zoning R1  
 Class 100

**Property Notes**

MUD FLATS  
 STONE PATIO , 150X1 C- AV  
 '07 NEW BATHROOM, A.H, PA  
 LOT FLOODS



68-027-00 03/30/2017

**Land Information**

Type	Size	Influence Factors	Influence %	Value
Water Front	AC	1,1000 Flooding	-30	
Water Front	F	500.0 Flooding	-30	

Total Acres: 1.1  
 Spot:

Street/Road: Private  
 Location: 14 COVE

**Assessment Information**

Assessed	Appraised	Cost	Income	Market
Land				
Building				
Total				

Value Flag  
 Gross Building:

Manual Override Reason  
 Base Date of Value 10/01/2018  
 Effective Date of Value 10/01/2018

**Entrance Information**

Date	ID	Entry Code	Source
10/15/18	RN	Review Only	Other
07/23/08	MO	Entry & Sign	Owner
06/18/08	BS	Entry	Other
06/18/08	BS	No One At Home	Other
06/17/08	BS	No One At Home	Other

**Permit Information**

Date Issued	Number	Price	Purpose	Temp Co (30)	% Complete
01/29/08	32510A	0	BLDG		100
03/06/07	32510	5,000	BLDG	Add Bathroom	100

**Sales/Ownership History**

Transfer Date	Price	Type	Deed Reference	Deed Type	Grantee
07/09/19		Land + Bldg	1655/811	Quit Claim	FULLER SAMUEL B - TR ET AL
02/08/07	3,925,000	Land + Bldg	1282/145		FULLER SAMUEL B - TR ET AL
			783/32		FOGARTY EDWARD T &

ACCESSORIAL INFO



PRIOR PARLAMENT  
REQUESTS

40 CONFINEMENT ISLAND ROAD

Calendar No. 59-1952

Calendar No. 24-1979

Calendar No. 80-1995

BUILDING  
PERMITS

✓ 40 Contentment Island Road (Lot 99)

Dwelling	1952	Permit # 4808
Addition	1956	" # 6369
<i>Porch</i>	<i>1979</i>	<i>" 11787</i>
• Tent	1992	Permit #20869
Add/alter	1996	Permit #23683

✓ 40 Contentment Island Road

Add & alter	1996	Permit #23683
Int/Alt to bathroom	2007	Permit #32510

42 Contentment Island Road  
Darien, CT 06820

Chairman  
Zoning Board of Appeals  
Darien Town Hall  
2 Renshaw Road  
Darien, CT 06820

July 8, 2020

Dear Chairman,

We would like to state our full support for the proposed addition by our neighbor, Sam and Oksana Fuller. We believe that the proposed addition is tasteful and in harmony with other houses on Contentment Island. We support this addition because it will allow the Fullers to remain in their house and increases the elevation of their living spaces.

We feel the addition benefits the environment by keeping the house as it is and within the same footprint. Again, we would like to reiterate our support for this proposed addition. If you have any questions, please call me at (646) 824-1246.

Thank you,

Keith Connor and Amy Connor

## Woodside, Robert

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**From:** Woodside, Robert  
**Sent:** Wednesday, July 8, 2020 12:26 PM  
**To:** Samuel Fuller  
**Subject:** RE: Fuller ZBA Application -- emails from Keith Connor

OK, I have the Connor email comments.  
I will probably highlight the applicable words for distribution to the ZBA members.

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**From:** Samuel Fuller [mailto:[sbfuller@optonline.net](mailto:sbfuller@optonline.net)]  
**Sent:** Wednesday, July 8, 2020 11:17 AM  
**To:** Woodside, Robert <[rwoodside@darienct.gov](mailto:rwoodside@darienct.gov)>  
**Subject:** Fwd: Fuller ZBA Application -- emails from Keith Connor

Woody, Attached is email correspondence from Keith Connor my neighbor to the south. As you can see below, he is supportive of our application. Keith has offered to send a letter of support but he may not have a chance to send it in time.

Regards,  
Sam

Samuel B. Fuller  
40 Contentment Island Road  
Darien, CT. 06820  
[sbfuller@optonline.net](mailto:sbfuller@optonline.net)

Begin forwarded message:

**From:** Keith Connor <[kfconnor@gmail.com](mailto:kfconnor@gmail.com)>  
**Subject:** Re: Fuller ZBA Application  
**Date:** July 2, 2020 at 4:27:01 PM EDT  
**To:** Samuel Fuller <[sbfuller@optonline.net](mailto:sbfuller@optonline.net)>

Ok, sounds good Sam. I will work on the letter this weekend. No problem at all, happy to help.

On Jul 1, 2020, at 8:24 PM, Samuel Fuller <[sbfuller@optonline.net](mailto:sbfuller@optonline.net)> wrote:

Thanks Keith,

The letter can be addressed to the:  
Chairman  
Zoning Board of Appeals  
Darien Town Hall  
2 Renshaw Road

Darien, CT 06820

If you can also send a pdf copy of the letter to me and to Robert Woodside, Zoning Enforcement Officer [rwoodside@darienct.gov](mailto:rwoodside@darienct.gov) that would be helpful.

We greatly appreciate your support. Thank you.

Regards,  
Sam

Samuel B. Fuller  
40 Contentment Island Road  
Darien, CT. 06820  
[sbfuller@optonline.net](mailto:sbfuller@optonline.net)

On Jun 30, 2020, at 4:50 PM, Keith Connor  
<[kfconnor@gmail.com](mailto:kfconnor@gmail.com)> wrote:

Ok, sounds good Sam. Loud and clear. We will work on a letter to the ZBA - if you could tell us who to address that too, this would be great. It seems like you should be able to add to your house and not be prevented from building higher just because you are below 14' elevation. The AC units are not an issue at all, so don't worry about that.

On Mon, Jun 29, 2020 at 8:41 PM Samuel Fuller  
<[sbfuller@optonline.net](mailto:sbfuller@optonline.net)> wrote:

Thanks Keith. One thing that I noticed may not be clear from the drawings which I want to make clear. I spoke to the contractor regarding the new high efficiency A/C condensers. He said they are taller than the existing condensers by about 28" so that with the platform raised by 12" the height to the top of the equipment will be about 30" higher than the height now. This is still inside the "notch" our house so I do not think it will be noticeable to you from your property.

Regards,  
Sam

Samuel B. Fuller  
40 Contentment Island Road  
Darien, CT. 06820  
[sbfuller@optonline.net](mailto:sbfuller@optonline.net)

On Jun 29, 2020, at 4:03 PM, Keith Connor  
<[kfconnor@gmail.com](mailto:kfconnor@gmail.com)> wrote:

Thanks Sam for sending the plans. This week with July 4<sup>th</sup> is pretty busy, but I will review them and get back to you by early next week.

On Mon, Jun 29, 2020 at 12:13 PM Samuel Fuller  
<[sbfuller@optonline.net](mailto:sbfuller@optonline.net)> wrote:

Keith, attached are the ZBA application plans. Please call me to discuss them when it is convenient.

Regards,  
Sam

Samuel B. Fuller  
40 Contentment Island Road  
Darien, CT. 06820  
[sbfuller@optonline.net](mailto:sbfuller@optonline.net)

## Woodside, Robert

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**From:** jared.heuer@gmail.com  
**Sent:** Thursday, July 9, 2020 9:27 AM  
**To:** Woodside, Robert  
**Cc:** srh2101@columbia.edu; 'Samuel Fuller'; 'Oksana Fuller'  
**Subject:** 40 Contentment Island

Robert,

My wife Schuyler and I write to offer our support for the proposed addition to Sam and Oksana's house across the street from us at 40 Contentment Island. We have had a chance to review their plans and think their addition and increases in the elevation will enhance the property and the neighborhood and offer Sam and his family with a more liveable environment.

We hope that their plans are approved by your board.

Thanks in advance,

Jared Heuer  
37 Contentment Island Road  
Darien, CT 06820

## Woodside, Robert

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**From:** Marian Castell <mmctell@gmail.com>  
**Sent:** Thursday, July 2, 2020 10:13 AM  
**To:** Woodside, Robert; Samuel B Fuller  
**Subject:** 40 Contentment Island Road ZBA

The plans for ZBA's decision regarding the addition to 40 Contentment Island Road, Darien, CT were brought over to me recently and explained in detail.

I do support the variance requested.

Marian Castell  
35 Contentment Island Road  
Darien, CT 06820

1"=20'

# SCOTT'S

1% ANNUAL CHANCE FLOOD HAZARD BOU

COASTAL JURISDICTION LINE—  
ELEVATION = 5.5'  
DECEMBER 11, 2019

