

Minutes

Special Meeting of the Greenwich Harbor Management Commission (HMC) Applications Review Committee

Subject: Comments by residents concerning a proposal by David and Nicole Areson for a CT DEEP permit for work at 17 Bryon Rd., including removal of an existing dock at the end of Shore Acre Drive.

9/20/19 3:30pm

Committee members in attendance:

Bernard Armstrong, Chairman

Bruce Angiolillo

Mike Van Oss, ex officio, attending as HMC Chairman

Geoff Steadman, HMC Consultant

Absent: Casey McKee

There were approximately 30 members of the public in attendance.

Chairman Armstrong called the meeting to order at 3:30pm.

It was noted that there is no matter pending that requires a decision by the HMC at this time and the meeting was convened in response to neighborhood residents' requests to share information with the HMC. Also noted was that the Areson's counsel contacted the HMC to advise the HMC of his clients' and their representatives' inability to attend. The Committee is willing to schedule another meeting to accommodate the Areson's if needed.

All attendees were provided an opportunity to speak. Mr. David Hawkins spoke first and said that he was a resident living at 21 Shore Acre Drive, speaking on behalf of 56 residents and presented background information concerning the history of the development of the Shore Acres community by Benjamin Lockwood in 1922. Mr. Hawkins said residents oppose the proposed removal of the dock at the end of Shore Acre Drive and that the dock is a community dock. He argued the claimed right to have the dock derived from a 50-ft wide easement extending to Greenwich Cove from the end of the road and also from a claimed "prescriptive" easement flowing from its long standing, uninterrupted use. Mr. Hawkins went on to say that the developer deeded water access rights to residents by this 50' easement. Around 1934, he said, an association of homeowners, at its expense, built a boardwalk and dock at the westerly end of the Shore Acre Drive. Members of the community have maintained this dock, he said, and the neighborhood has enjoyed uninterrupted use of the dock over the years.

Mr. Hawkins said that he is of the opinion that the easement gives his fellow residents the right to build a community dock. He also said that the dock is not state-authorized, but pre-dates 1939 and that aerial photographs taken in the 1930s show that it was in place at that time. Mr. Hawkins stated that the easement is located on privately owned property and asserted that while the owners of that property have littoral rights, they do not have exclusive rights in that those rights are shared by 56 neighbors. As a result, he said, the property owners do not have the right to remove the dock.

This certificate received on file

On SEP 27 2019

At 12:04 Pm


Town Clerk

There also was a discussion of a 10-foot wide easement along the shoreline between the extensions of Shore Acre Drive and Sunset Road. Mr. Hawkins said that this easement is not considered pertinent to the current situation with respect to the dock at the end of Shore Acre Drive.

Mr. Hawkins concluded by stating that the HMC should oppose any application to remove the dock on the grounds that it is a community dock, consistent with the purpose of the 50-ft. easement, and the property owners do not have the right to remove it.

Other residents spoke and reiterated points made by Mr. Hawkins and provided additional information in support of their position that the dock should not be removed and should continue as a community dock. It was argued that removal of the dock would create a safety hazard. Others expressed concern that a construction company was recently observed apparently preparing to remove the dock.

Mrs. Nicole Areson also spoke and identified herself as the property owner with her husband at 17 Bryon Road and that they are considering applying for a DEEP permit to remove the dock and conduct other work on their property. Mrs. Areson reviewed the various discussions she said she has had with neighbors about the proposed removal of the existing dock. She stated that she and her husband are willing to consider a compromise solution to the current situation. She also said that DEEP has informed her that the existing dock is illegal in that it is not permitted; that DEEP allows only one dock on a waterfront property; and that the dock does not pre-date 1939.

Mrs. Areson confirmed for the HMC that to date the Aresons have not submitted an application to DEEP to remove the dock.

Mr. Angiolillo and Mr. Steadman described the role of the HMC in DEEP's coastal regulatory process which involves a requirement that an applicant provide plans to the HMC and obtain the HMC's signature on DEEP's harbor management consultation form prior to submitting an application to the DEEP. The HMC reviewed the Areson's pre-application plans and in June informed them and DEEP that the HMC had no objection to the plans being included in an application to DEEP. Pursuant to its normal practice, the HMC did not comment on the consistency of the plans with the Harbor Management Plan and reserved its right to review the proposal at such time as the DEEP may issue a public notice, a public hearing may be held, or additional information is provided. It was noted that at such time as DEEP may issue a notice of tentative determination, interested parties may petition for a public hearing with submittal of 25 signatures. It was also noted that a public hearing will add considerable time to the permitting process.

Mr. Angiolillo asked if there are other issues of concern to the neighbors of 17 Bryon Road in addition to the proposed removal of the dock and he expressed his opinion of why a mutually agreeable resolution would be the most desirable outcome here.

The Assistant Town Planner also spoke and expressed the P&Z's interest in coordinating its review of the Areson's CAM proposal (for the necessary P&Z approval) with the HMC's review of the DEEP permit application.

Mr. Hawkins also stated that the concerned neighbors have made their concerns known to DEEP and as a result of their communication with DEEP are in the process of forming a legal entity that would have legal standing to apply for a DEEP permit to retain and maintain the dock in question.

Chairman Armstrong concluded by saying this meeting was held only to gather information. No action item was decided or voted upon

Mr. Armstrong closed the meeting at 5:15pm