

pbz-counter

From: Richard D. Carella <rcarella@uks.com>
Sent: Tuesday, April 2, 2024 10:18 AM
To: pbz-counter
Cc: Town Planner; Prue, James; Cox, David
Subject: RE: 4.3.2024 PZC

CAUTION:

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Good morning

The Connecticut Department of Energy and Environmental Protection (DEEP) has jurisdiction over the tidal and navigable waterways, including “the dredging and the erection of structures and the placement of fill, and work incidental thereto, in the tidal, coastal or navigable waters of the state waterward of the coastal jurisdiction line.” See CGS §§22a-359, et seq. The “coastal jurisdictional line” is essentially the mean high tide line along the Connecticut River, and a permit from DEEP is required for any work waterward of the coastal jurisdictional line. Specifically CGS §22a-361 states, “**No person**, firm or corporation, public, municipal or private, **shall dredge, erect any structure, place any fill, obstruction or encroachment or carry out any work incidental thereto** or retain or maintain any structure, dredging or fill, in the tidal, coastal or navigable waters of the state **waterward of the coastal jurisdiction line until** such person, firm or corporation has submitted an application and **has secured from the Commissioner of Energy and Environmental Protection a certificate or permit for such work** and has agreed to carry out any conditions necessary to the implementation of such certificate or permit.” **Emphasis Added**. It is not clear from the photographs provided to me if the stairs, firepit, or anything else is erected waterward to the coastal jurisdictional line. If it is, then DEEP has jurisdiction and a permit is required from DEEP for such activities.

The East Hampton Inland Wetlands and Watercourses Agency (IWWA) has jurisdiction as to any “regulated activity” which is conducted within the “regulated area.” Both of these terms are defined in the Town of East Hampton Inland Wetlands & Watercourses Agency Regulations, revised through 2/1/2018. Specifically, “regulated activity” means, in pertinent part, “. . . any clearing, grubbing filling, grading, paving, excavating, construction, depositing or removing of material and discharging of storm water within the following upland review areas is a regulated activity: (1) within 100 feet measured horizontally from the boundary of any wetland or watercourse, (2) **within 150 feet horizontally from the boundary of the Salmon River**, (3) **within 150 feet horizontally from the boundary of the Connecticut River**, and (4) within 200 feet measured horizontally from the boundary of any wetland or watercourse within the Lake Pocotopaug Watershed Area.” **Emphasis Added**. It does appear from the photographs provided that a regulated activity (clearing and construction) is occurring/has occurred within the regulated area (i.e within 150 feet horizontal of the CT River boundary), and as such, the IWWA has jurisdiction over such activities.

Lastly, the Planning and Zoning Commission has jurisdiction over the enforcement of the conservation easement restrictions per the terms of the Conservation Easement which was created upon the subdivision of the property in 1985. From your email it appears that an application regarding these activities is currently pending before the P&Z Commission.

Please let me know if you have any further questions or concerns.

Regards
Rich