

**FINAL**

**ENVIRONMENTAL PROTECTION BOARD  
CITY OF STAMFORD  
MINUTES OF THE SEPTEMBER 21, 2023  
REGULAR MEETING  
CONDUCTED VIA INTERNET AND CONFERENCE CALL**

**MEMBERS PRESENT:**

Gary H. Stone, Chairman  
Leigh Shemitz, Member (arrived at 7:34 pm)  
Laura Tessier, Member  
David Kozlowski, Alternate Member  
Thomas Romas, Alternate Member  
Stephen Schneider, Alternate Member

**MEMBERS NOT PRESENT:**

Joseph Todd Gambino, Member

**STAFF PRESENT:**

Robert Clausi, Executive Director  
Pamela Fausty, Environmental Analyst  
Courtney Fahan, OSS, Land Use Bureau

Mr. Stone called the meeting to order at 7:30 p.m. Seated to vote for the meeting were Mr. Stone, Dr. Shemitz, Ms. Tessier, Mr. Kozlowski, and Mr. Schneider.

Mr. Stone introduced the first item on the agenda.

➤ **MINUTES:**

**June 15, 2023 (Regular Meeting)**

The Board considered the minutes of the June 15, 2023 Regular Meeting. Members who were present at that meeting and eligible to vote were Mr. Stone, Mr. Romas, and Mr. Schneider. No comments or modifications were recommended.

**Motion/Vote:** Upon a motion by Mr. Romas and second by Mr. Schneider, the Board voted to **ACCEPT** the Regular Meeting Minutes of June 15, 2023.

In Favor: Stone, Romas, and Schneider  
Opposed / Abstaining / Not Voting: None

**July 20, 2023 (Regular Meeting)**

The Board considered the minutes of the July 20, 2023 Regular Meeting. Members who were present at that meeting and eligible to vote were Mr. Stone, Ms. Tessier, Mr. Kozlowski and Mr. Schneider. No comments or modifications were recommended.

**Motion/Vote:** Upon a motion by Ms. Tessier and second by Mr. Kozlowski, the Board voted to **ACCEPT** the Regular Meeting Minutes of July 20, 2023.

In Favor: Stone, Tessier, Kozlowski, and Schneider  
Opposed / Abstaining / Not Voting: None

## APPLICATIONS & PERMITS:

### Acceptances/Extensions/Withdrawals:

**#2023-14 – Lakeside Drive Bridge – City of Stamford Engineering Bureau:** To replace Bridge No. 04069 over the North Stamford Reservoir and within the special flood hazard area on a property within the drinking water supply watershed of the Rippowam River. The bridge is located approximately 1,175 feet south-east of the intersection of Lakeside Drive and North Stamford Road, and is in Zone RA-3.

**#2023-15 – 0 Wire Mill Road – AECOM for Aquarion Water Company:** To replace a public water supply well pump house within the special flood hazard area on a property within the non-drinking water supply watershed of the Rippowam River. The property is located approximately 750 feet west of the intersection of Wire Mill Road and High Ridge Road, and is in Zone RA-1.

**#2023-16 – 94 Bentwood Drive – John Mastera for David & Hildi Todrin:** To replace a deck, and install a generator and a propane tank within the upland review area of wetlands and watercourses on a property within the drinking water supply watershed of the Mianus River (West Branch). The property is located along the south side of Bentwood Drive, approximately 1,100 feet southwest of the intersection of Bentwood Drive and Erskine Road, and is identified as Lot 11, Account 000-7700, Card S-004, Map 39, Block 400, Zone RA-3, and is  $\pm$  2.001 Acres.

**#2023-17 – 1349 Newfield Avenue – Sterling Farms Golf Course:** To hydrorake two ponds on a property within the non-drinking water supply watersheds of Springdale Brook, Ayers Brook, and the Noroton River. The property is located along the east side of Newfield Avenue, approximately 50 feet east of the intersection of Newfield Avenue and Newfield Drive, and is identified as Lot A, Account 002-6063, Card E 073, Map 78, Block 380, Zone P, and is  $\pm$  132.500 Acres.

**#2023-18 – 50 West Main Street – The Mill River Collaborative:** To replace a playground on a property within the non-drinking water supply watershed of the Rippowam River. The property is located on the east side of West Main Street just north of Tresser Boulevard.

**#2023-19 – Wire Mill Road Bridge – City of Stamford Engineering Bureau:** To replace the Wire Mill Road bridge over Haviland Brook proximate to watercourses and within the special flood hazard area in the non-drinking water supply watershed of the Rippowam River. The bridge is located approximately 1,350 feet west of the intersection of Wire Mill Road and High Ridge Road.

**Discussion:** Mr. Stone acknowledged the receipt of the minimum information necessary to accept EPB Permit Application Nos. 2023-14, 2023-15, 2023-16, 2023-17, 2023-18 and 2023-19.

**Motion/Vote:** Upon a motion by Mr. Kozlowski and second by Mr. Schneider, the Board voted to **ACCEPT** EPB Permit Application Nos. 2023-14, 2023-15, 2023-16, 2023-17, 2023-18 and 2023-19.

In Favor: Stone, Shemitz, Tessier, Kozlowski, and Schneider  
Opposed/ Abstaining/ Not Voting: None

**MOD #1911 – 128 North Stamford Road – David Devin:** To reconstruct a retaining wall adjacent to a watercourse, reconstruct a weir, and remove excess silt from a watercourse on property within the non-drinking water supply watershed of Poorhouse Brook. The property is located along the west side of North Stamford Road, across from the intersection of North Stamford and Cascade

Roads, and is identified as Lot B, Account 004-2096, Card N-010, Map 36, Block 387, Zone RA-1, and is ± 3.532 Acres.

**Discussion:** Mr. Stone acknowledged the receipt of the minimum information necessary to accept the application to modify EPB Permit Application No. 1911.

**Motion/Vote:** Upon a motion by Mr. Kozlowski and second by Mr. Schneider, the Board voted to **ACCEPT** EPB Permit Modification Application No. 1911.

In Favor: Stone, Shemitz, Tessier, Kozlowski, and Schneider  
Opposed/ Abstaining/ Not Voting: None

**#2023-12 – 28 Quaker Ridge Road – Anlyn Hilderbrand:** To construct an above ground pool proximate to wetlands on a property within the non-drinking water supply watershed of Haviland Brook. The property is located along the north side of Quaker Ridge Road, and is identified as Lot B, Account 001-0344, Card N-002, Map 34, Block 391, Zone RA-1, and is ± 0.916 Acres.

**Discussion:** Mr. Stone noted that this application has been withdrawn by the applicant.

#### **Action Items:**

**#2023-10 – 163 Breezy Hill Road – Dinino for Paisner:** To maintain a generator and propane tanks within the wetland and watercourse upland review area on a property within the drinking water supply watershed of the Mianus River East Branch. The property is located at the cul de sac of Breezy Hill Road, approximately 325 feet north of the intersection of Breezy Hill and Happy Hill Roads, and is identified as Lot 11, Account 003-1238, Card N 013Z, Map 8, Block 402, Zone RA-1, and is ± 1.637 Acres.

**In Attendance:** No one

**Discussion:** A summary of the application offered by Mr. Clausi on behalf of Lindsay Tomaszewski, Environmental Analyst, provided details of the project and discussed the impacts to the area from the work that has been performed. Mr. Clausi noted that the building department issued a permit for the generator and propane tanks without flagging this for review by EPB. EPB staff became aware of the project when prompted to endorse the certificate of completion in the Building Department's online permitting system.

Dr. Shemitz asked if the generator and tanks were installed in the most logical place, to which Mr. Clausi answered he assumed so as they are in a lawn area next to the house and likely close to the electrical panel. Mr. Kozlowski agreed after the fact approval of this application seems reasonable, but should not be seen as the Board setting a precedent of always approving such activities. Hearing no further comments, Mr. Stone asked for a motion from the Board.

**Motion/Vote:** Upon a motion by Mr. Kozlowski and second by Mr. Schneider the Board voted to **APPROVE** EPB Permit No. 2023-10 subject to the single condition outlined in the Agenda Summary Report, dated September 14, 2023.

In Favor: Stone, Shemitz, Tessier, Kozlowski, and Schneider  
Opposed / Abstaining / Not Voting: None

**#2023-11 – 83 Camp Avenue – Steve Mickels:** To continue the use of the property as a storage area for landscaping materials, including gravel, topsoil, and mulch within the special flood hazard area Zone AE (Base Flood Elevation 76 feet, FIRM panel 09001C0507F). The property is situated along the south side of Camp Avenue, and is identified as Lot 22, Account 001-0553, Card S-006, Map 86, Block 319, Zone MG, and is  $\pm$  0.508 Acres.

**In Attendance:** No one

**Discussion:** A summary of the application offered by Mr. Clausi on behalf of Environmental Analyst, Jaclyn Chapman, provided details of the project and discussed the impacts to the area from the work to be performed. Mr. Clausi stated the property has no wetlands, but it is in a flood prone area. Mr Clausi noted that Ms. Chapman recommended the Board defer making a decision on the application pending submission of additional information and then asked the members to provide their feedback on the application so the applicant will be aware of the complete range of issues they need to address.

Board members expressed doubts that they would have approved using this property as a landscaping materials storage and distribution yard if it had been presented before being implemented. They also stated their belief that the continued use of this property, as proposed, will cause more degradation of Springdale Brook, a watershed that is already impacted by the high density of the surrounding residential and commercial properties. The Board noted their precedent is to move Springdale Brook watershed applications in a direction that improves water quality, so the current proposal is concerning.

Members questioned whether the no-rise certification was based on a full hydrologic and hydraulic analysis and voiced skepticism that the cement block walls that were installed after the restaurant building was demolished will not create backwater effects greater than the former restaurant building would have.

Members noted that coir logs are impermanent and inadequate as a sediment control measure given the intensity of rainfall now regularly occurring and the flooding this property may experience. Neither coir logs nor tarps are adequate to prevent mobilization of the materials in the storage bays during the base flood.

Concerns were also raised about the water quality impacts of fuel and hydraulic fluid leaks from the loaders used to move the materials around the yard and the commercial vehicles that come in and out of the yard.

The Board is concerned about the public safety implications of continuing this use. Related to water quality and public safety, the members felt more information is needed about hazardous materials such as fertilizers, pesticides, and petrochemicals, that may be stored in the shed and shipping container. Members also questioned whether the dumpster will remain on site after the diesel dispenser is removed from it and, if so, whether it will be used for disposal of hazardous materials.

The Board instructed the applicant to provide a minimum of temporary site control and protection to the brook while this application is being reviewed by having a coir log installed along the south side of the property, installing coir logs around the base of the mulch and topsoil piles at the end of every day, and sweeping the yard prior to rain events.

Finally, Board members expressed an interest in visiting the property and instructed staff to find out from the applicant whether there are any safety or other restrictions on such visits and ask them to provide us with the name and contact number of the site supervisor.

At the conclusion of the discussion, Mr. Clausi noted that the first 65 day review period for this application will expire before the end of September and the application should be denied as incomplete at the October meeting if the applicant does not authorize an extension of the review period.

Hearing no further comments and in the absence of any representative from the applicant, Mr. Stone asked for a motion from the Board.

**Motion/Vote:** Upon a motion by Mr. Kozlowski and second by Dr. Shemitz the Board voted to **DEFER** rendering a decision on EPB Permit No. 2023-11.

In Favor: Stone, Shemitz, Tessier, Kozlowski, and Schneider  
Opposed / Abstaining / Not Voting: None

**#2023-13 – 146 Blackberry Drive – Jane and David Novick:** To install a generator and propane tank, and maintain a shed and fencing proximate to wetlands and watercourses on a property within the drinking water supply watershed of the Mianus River East Branch. The property is located along the south side of Blackberry Drive, approximately 480 feet southwest of the intersection with Blackberry Drive East, and is identified as Lot 15, Account 003-0834, Card S-009, Map 15, Block 402, Zone RA-1 and is  $\pm 1.515$  acres.

**In Attendance:** John F.X. Leydon Jr., Attorney

**Discussion:** A summary of the application offered by Ms. Fausty provided details of the project and discussed the impacts to the area from the work to be performed.

No questions or comments were offered by the members of the Board when asked by Mr. Stone.

In response to a question from Mr. Stone, Attorney Leydon acknowledged he and his client had received a copy of the Agenda Summary Report and had no questions, comments, or objections.

Hearing no further comments, Mr. Stone asked for a motion from the Board.

**Motion/Vote:** Upon a motion by Ms. Tessier and second by Mr. Kozlowski the Board voted to **APPROVE** EPB Permit No. 2023-13 subject to the 4 conditions outlined in the Agenda Summary Report dated September 14, 2023.

In Favor: Stone, Shemitz, Tessier, Kozlowski, and Schneider  
Opposed / Abstaining / Not Voting: None

➤ **SITE PLAN REVIEWS:** None

➤ **SUBDIVISION REVIEWS:** None

➤ **SHOW CAUSE HEARINGS/ENFORCEMENT:**

**46 Bird Song Lane – Trevor Arthur and Heather Williams:** Unauthorized construction of boulder retaining walls with associated fill in wetlands and upland review areas.

**In Attendance:** Trevor Arthur and Heather Williams, Owners  
David Lasnick, Attorney

**Discussion:** A summary of what appear from a distance to staff to be unauthorized activities at 46 Bird Song Lane was offered by Ms. Fausty. These activities were observed in mid-August when staff was investigating a complaint received about sediment discharges from a downstream neighbor on Poorhouse Brook (NB: the majority of the sediment likely came from the drainage installation project the City is conducting on Bird Song Lane). The stop work letter subsequently sent to Ms. Williams and Mr. Arthur instructed them to immediately install erosion controls to contain areas of disturbed soil on their property and submit an updated topographic survey. Staff again observed the site on September 14<sup>th</sup> and found no erosion controls were in place. In light of this, and based on the owners' response to the stop work order, which included no indication they would prepare the requested survey, the Board moved this matter to Cease & Desist on September 15<sup>th</sup>.

Attorney Lasnick began his presentation on behalf Ms. Williams and Mr Arthur by stating his clients have been subject to the unauthorized use of their property by the contractor who is implementing the Bird Song Lane drainage improvements. Attorney Lasnick said there have been changes to the property, but the fill and the boulders are from the drainage excavation. Mr. Arthur stated he did erect a boulder wall and moved fill to alter his yard, but he and Ms. Williams stated Photo #2 in the Enforcement Report is of their southerly neighbor's yard rather than theirs and shows work the neighbor did in the recent past. Mr. Arthur stated he is willing to do what may need to be done to address the conditions on his property.

Board members acknowledged that a lot more information is needed in order to clear up this disturbing situation. Mr. Stone asked the owners if staff and the members can have their permission to enter their property to better determine the scope of the changes that have occurred. For instance, Ms. Fausty stated she was at the property in 2020 and access would allow her to gauge the changes in topography. Mr. Lasnik and the owners said they would consider the access request and get back to the Board with their decision.

At the conclusion of the discussion, Mr. Stone asked for a motion from the Board.

**Motion/Vote:** Upon a motion by Ms. Tessier and second by Mr. Kozlowski the Board voted to maintain the Cease & Desist Order and authorize the filing of a Notice of Violation if the disturbed soil surfaces at 46 Bird Song Lane are not immediately contained by properly installed erosion controls.

In Favor: Stone, Shemitz, Tessier, Kozlowski, and Schneider  
Opposed / Abstaining / Not Voting: None

**136 Breezy Hill Road – James Banahan:** Request for extension of time to develop plan to restore unauthorized clearing of vegetation and filling within the wetlands, watercourse, and upland review area.

**In Attendance:** Diane Lord, Attorney

**Discussion:** Mr. Clausi reported the applicant has requested this audience before the Board to ask for more time to develop the restoration plan the Cease & Desist Order upheld at the July 2023 meeting required be presented for staff review and approval by August 20, 2023.

Attorney Lord spoke on behalf of Mr. Banahan. She stated Mr. Banahan and his consultants need more time to develop an “appropriate plan”. In response to a question from Mr. Clausi, Attorney Lord said a draft restoration plan was developed but it was rejected by Mr. Banahan because he felt it would cause more flooding over his driveway. Mr. Clausi recommended Attorney Lord have Mr. Banahan submit the draft plan so staff can advise him if he is on the right track to adequately restore the impacted area.

With the help of Mr. Kozlowski, the Board reviewed the conditions that were set when it voted to maintain the Cease & Desist Order in July. The Board instructed staff to implement its prior decision and file a Notice of Violation on the Stamford Land Records since the August submission deadline has been missed. This notice will not be removed until the violation has been resolved to the satisfaction of the Board.

Hearing no further comments and with no new action required on behalf of the Board, Mr. Stone moved on to the next item.

**14 Cow Path Drive – Sergio Mendoza:** Review of plan to restore clearing of vegetation within wetlands.

**In Attendance:** Sergio Mendoza, Owner

**Discussion:** Mr. Clausi provided a quick overview of the comments Environmental Analyst Lindsay Tomaszewski detailed in her Agenda Summary Report regarding the draft restoration plan that has been submitted by Mr. Mendoza. Ms. Tomaszewski noted the plan lacks important details as to the size of the trees proposed to restore what was a wooded slope above the wetland that trends northeast to southwest through the middle of the subject property. In response Ms. Tessier’s question whether the six red maples and three flowering dogwood trees that make up the plan are appropriate to restore the approximately 9,000 square foot affected area, Mr. Clausi commented the plan seems to be about 25% of what would be reasonable to restore this area. Dr. Shemitz added this plan includes a very limited mix of species and looks more like a landscaping plan than a forest restoration plan.

Ms. Tessier stated that a full rather than partial forest restoration plan should be required. The suggestion was then raised that the balance of the trees could be smaller stock than the large trees recommended by Ms. Tomaszewski. Ms. Tessier also voiced a concern that the survival of these trees must be monitored over an extended period of time. Hearing no further comments from the members, Mr. Stone asked for a motion from the Board.

**Motion/Vote:** Upon a motion by Ms. Tessier and second by Dr. Shemitz, the Board voted to maintain the Cease and Desist Order with the 7 conditions listed in the September 14, 2023 EPB Agenda Summary Report, with the added condition that a revised planting plan consisting of at least 38 mixed native trees shall be submitted for staff review and approval, and the bond hold period shall be five years rather than the two years recommended in the staff report.

In Favor: Stone, Shemitz, Tessier, Kozlowski, and Schneider  
Opposed/Abstaining/Not Voting: None

➤ **OTHER BUSINESS:**

**1. Preliminary review of Wire Mill Road Bridge replacement project.**

Mr. Clausi briefly summarized the September 15, 2023 memo that was included in the members' meeting packets regarding requested permanent takings and temporary easements within an existing conservation easement (CE) administered by the EPB. The applicant states these takings and easements are required to implement the replacement of the Wire Mill Road bridge over Haviland Brook. Specifically, the Board has been asked by the Stamford Engineering Division and the Connecticut Department of Transportation to approve a +/-256 square foot permanent CE taking, an +/-11 square foot easement within the CE to slope for the support and safety of the bridge, a +/-441 square foot temporary easement within the CE during construction, and a +/-46 linear foot right to install temporary fencing within the CE during construction, as described in the project materials.

After some discussion, Mr. Stone asked for a motion from the Board.

**Motion/Vote:** Upon a motion by Ms. Tessier and second by Mr. Kozlowski, the Board voted to approve the proposed takings and easements, with the understanding that the Board reserves its right to review the bridge replacement project for conformance with the Inland Wetland and Watercourse Regulations of the City of Stamford and the section 15.B of the Stamford Zoning Regulations (i.e., the "Flood Prone Area Regulations") and in the event the bridge replacement project does not take place, this approval for permanent takings and temporary easements shall be void.

In Favor: Stone, Shemitz, Tessier, Kozlowski, and Schneider  
Opposed / Abstaining / Not Voting: None

**2. Draft EPB Meeting Schedule for 2024**

Mr. Clausi directed the Board's attention to the draft 2024 EPB meeting schedule that was included with the materials that were distributed for review at this meeting. In the absence of any significant scheduling conflicts with the proposed dates being voiced by the members, Mr. Stone asked for a motion from the Board.

**Motion/Vote:** Upon a motion by Ms. Tessier and second by Mr. Kozlowski, the Board voted to **APPROVE** the EPB Meeting Schedule for 2024.

In Favor: Stone, Shemitz, Tessier, Kozlowski, and Schneider  
Opposed / Abstaining / Not Voting: None

➤ **ADJOURN:**

**Motion/Vote:** Upon a motion by Mr. Kozlowski and second by Ms. Tessier the Board voted to **ADJOURN** the Regular Meeting of September 21, 2023.

In Favor: Stone, Shemitz, Tessier, Kozlowski, and Schneider  
Opposed / Abstaining / Not Voting: None  
Meeting adjourned at 9:40 p.m.

Gary H. Stone, Chairman  
Environmental Protection Board