



City of Stamford
ENVIRONMENTAL PROTECTION BOARD
INTEROFFICE CORRESPONDENCE

MEMO TO: EPB Members

FROM: Jaclyn Chapman, Environmental Analyst

SUBJECT: EPB Enforcement
136 Breezy Hill Road – James Banahan

DATE: March 15, 2024

=====

In late June 2023, EPB staff inspected 136 Breezy Hill Road and found that trees and shrubs had been removed from a wetland and watercourse area, and a portion of the wetland had been filled. EPB enforcement actions are summarized as follows:

- A Cease-and-Desist Order was issued on July 11, 2023.
- During the July 20, 2023, meeting, the Board voted to maintain the Cease-and-Desist Order and require submission of a restoration plan by August 20, 2023.
- A Notice of Violation was filed on the Stamford Land Records on October 2, 2023, because the Board's original August 20th deadline for submission of the restoration plan was missed.
- Mr. Banahan and his attorney provided a restoration plan on January 17, 2024. EPB staff noted that the planting plan required updates with more native tree species and more native varieties of shrubs and herbaceous species.
- The restoration plan did not include any action for fill removal around the pond down to the original soil surface and EPB staff directed his attorney to include this as part of the plan.
- Mr. Banahan's attorney asked to defer any decision until the March 2024 meeting, which was granted by EPB staff.

- A second restoration planting plan has been provided for Board review dated February 29, 2024. This plan does not contain any action for fill removal.
- EPB staff once again asked for the fill removal to be included as part of the restoration and to extend plantings to the east end of the planting plan between the pond and Breezy Hill Road.
- A revised plan has not been provided as of March 15, 2024. The before and after photos of the fill and vegetation removal are provided below for reference.



Photo 1: Photo facing west from Breezy Hill Road at the area of filling and vegetation removal on June 22, 2023. Note the location of the rock in this photo and photo 2.



Photo 2: Photo facing west from Breezy Hill Road of pond and surrounding wetland vegetation on July 7, 2020. Note the location of the rock in this photo and photo 1.

EPB staff recommends the board direct what the restoration will be and when it must be completed by. EPB staff recommends the fill removal and expansion of the restoration area work is completed by the end of the spring planting season, around June 1, 2024. A draft of the conditions for an Order to Correct has been provided below for Board review and approval.

1. The restoration planting plan shall be updated to include the removal of unauthorized fill deposited in the wetland area surrounding the northern and eastern edges of the pond. The plan shall also be updated with the expansion of plantings to the east end of the planting plan between the pond and Breezy Hill Road. This plan is subject to review and approval by EPB staff.
2. Submission of a performance bond or certified check to secure the timely and proper performance of the restoration. A detailed estimate of fill removal, restoration planting stock, and installation cost shall be supplied to EPB staff for approval prior to the submission of the performance surety. The approved performance surety shall be submitted to EPB staff prior to the start of any on-site activity.
3. A standard Contractor's Compliance Statement shall be completed by the contractor engaged to perform the regulated activities and shall be submitted to EPB staff no less than 48 hours prior to the start of work.
(https://stamfordct.seamlessdocs.com/f/contractors_compliance_statement)
4. The approved restoration plan shall be implemented under the supervision of a landscape professional who will verify that the original soil surface is reached during the fill removal process.
5. The approved restoration plan shall be fully implemented by June 1, 2024. Failure to meet this deadline shall result in notifying the Corporation Counsel to pursue all actions necessary to gain compliance in resolving any outstanding violations.
6. Certification that the restoration work has been completed in conformance with the approved plans shall be prepared by the supervising professional and shall be submitted to the record.
7. The performance surety shall be eligible for release three years after EPB staff determine restoration activities have been satisfactorily completed and if at least 80% of the restoration plantings remain alive and thriving.

Thank you and please call me at 203-977-4065 if you have any questions.