



**ENVIRONMENTAL PROTECTION BOARD
CITY OF STAMFORD
MINUTES OF THE JUNE 18, 2020
REGULAR MEETING
CONDUCTED VIA INTERNET AND CONFERENCE CALL**

BOARD MEMBERS PRESENT:

Gary H. Stone, Chairman
Dr. Leigh Shemitz, Member
Ashley A. Ley, Member
Laura Tessier, Member
David J. Kozlowski, Alternate Member

MEMBERS NOT PRESENT:

Thomas C. Romas, Alternate Member
Stephen J. Schneider, Alternate Member

STAFF PRESENT:

Richard Talamelli, Executive Director/Environmental Planner
Pamela Fausty, Environmental Analyst
Lindsay Tomaszewski, Environmental Analyst
Leslie Capp, Office Support Specialist

The meeting was called to order by Mr. Stone at 7:30 PM. Seated for the meeting were Mr. Stone, Dr. Shemitz, Ms. Ley, Ms. Tessier, and Mr. Kozlowski. It is noted that Dr. Shemitz joined the meeting at approximately 7:32PM.

MINUTES:

Minutes of the EPB Regular Meeting of May 14, 2020:

The Board considered the minutes of the May 14, 2020 Regular meeting. Members present and eligible to vote were Mr. Stone, Dr. Shemitz, Ms. Ley, Ms. Tessier, and Mr. Kozlowski. No comments or modification were recommended.

Motion/Vote: Upon a motion by Ms. Ley, and seconded by Ms. Tessier, the Board voted to

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APPROVE the Minutes of the May 14, 2020 Regular Meeting as presented.

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

APPLICATIONS AND PERMITS:

Acceptances/Extensions/Withdrawals:

#2020-06 – 136 Breezy Hill Road – Lot 19A – Fairfield County Engineering, LLC for S. and J.

Katz: To construct drainage, grade and implement related activities in and proximate to wetlands and watercourses situated in the non-drinking water supply watershed of Haviland Brook. The property lies along the west side of Breezy Hill Road, approximately 200 feet north of Happy Hill Road, and is identified as Lot 19A, Account 002-2731, Card S-007, Map 15, Block 402, Zone RA-1, and +1.087 Acres.

Reference is made to EPB Staff Memo, dated June 15, 2020.

#2020-08 – West Hill Road - NA – City of Stamford - West Hill Road Roadway and Drainage

Improvements: To implement certain roadway, drainage and other related improvements in and within close proximity to wetlands and watercourses situated in the non-drinking water supply watershed of the Rippowam River. Areas subject to this application affect both public and private properties along a reach of West Hill Road, generally bordered by Roxbury Road to the north and McGregor Drive to the south, including 643 and 682 West Hill Road, Stamford, Connecticut 06902.

Reference is made to correspondence for Leonard C. D'Andrea, P.E., D'Andrea Surveying and Engineering, dated June 11, 2020.

In Attendance: None

Discussion: Mr. Stone acknowledge the receipt of correspondence from Wayne D'Avanzo, P.E., Fairfield County Engineering, LLC, dated June 11, 2020 and Leonard C. D'Andrea, P.E. D'Andrea Surveying and Engineering, P.C., dated June 11, 2020 requesting extensions of the statutory decision deadlines in order to generate necessary information.

Motion/Vote: None

#2020-14 – 7 Rising Rock Road – Lot N-42 – J. Gershon: To maintain an underground propane tank and related features proximate to wetlands situated in the drinking water supply watershed of the Mianus River (East Branch). The property is located along the west side of Rising Rock Road, just south of Shelter Rock Road and is identified as Lot N-42, Account 001-8261, Card W-001, Map 56, Block 394, Zone RA-1, and +43,566 square feet.

#2020-15 – 50 Walter Lane - Lot 15 – J. Mallozzi, P.E. for M. Perez: To relocate and maintain sheds, construct a roofed structure, install a pool fence, and conduct related activities within close proximity to

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wetlands situated in the drinking water supply watershed of the Mianus River. The property is located along the south side of Walter Lane, approximately 600 feet west of Den Road, and is identified as Lot 15, Account 002-5712, Card S-004Z, Map 81, Block 374, Zone RA-1, and +43,560 square feet.

#2020-16 – 926 Rock Rimmon Road – Lot 4 – C. Garcia Diego for T. Hernandez: To restore a stone wall and implement certain wetland restoration/enhancement activities in and proximate to wetlands situated in both the drinking water supply watershed of the Mianus River (East Branch) and non-drinking water supply watershed of Haviland Brook. The property is situated along the west side of Rock Rimmon Road, approximately 800 feet north of Mayapple Road, and is identified as Lot 4, Account 002-2819, Card W-062, Map 8, Block 402, Zone RA-1 and +44,079 square feet.

Reference is made to EPB Staff Memo, dated June 16, 2020 as to EPB Applications No. 2020-14, 2020-15 and 2020-16.

In Attendance: None

Discussion: Mr. Stone acknowledged the receipt of the minimum information necessary to accept EPB Permit Application No. 2020-14, 2020-15 and 2020-16.

Motion/Vote: Upon a motion by Ms. Ley, and seconded by Mr. Kozlowski, the Board voted to **ACCEPT** EPB Permit Applications No. 2020-14, 2020-15, and 2020-16.

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

Action Items:

#2020-04 – 121 White Oak Lane – Lot 2 - Candide Contractor, LLC for M. and J. Capogrossi – To maintenance dredge a pond situated in the non-drinking water supply watershed of Springdale Brook. The property lies along the cul-de-sac, approximately 1,480 feet east of Newfield Avenue, and is identified as Lot 2, Card N-10Z, Account 000-2965, Map 60, Block 380, Zone RA-1, and +1.0005 Acres.

Reference is made to EPB Staff Agenda Summary Report, revised June 12, 2020.

In Attendance: Dainius Virbickas, P.E., Artel Engineering, LLC.
Candide Valadares
William Kenny, William Kenny Associates

Discussion: Ms. Tomaszewski summarized the application for the Board. She stated that the applicant seeks permission to maintenance dredge a pond, landscape and implement other related activities on property situated in the non-public drinking water supply watershed of Springdale Brook. She reminded members, that a detailed presentation was made at the Board's April 16, 2020 Regular Meeting. Following extensive discussion, the Board determined to defer from further action pending the submission of additional information to establish the origins and functions of the pond,

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define the potential impacts on regulated areas, and clarify important project details including the depth and suitability of the excavation, the volume and composition of the excavated spoils, and the measures proposed to verify as-built conditions. Ms. Tomaszewski stated that responses to the Board's concerns were outlined in correspondence prepared by William Kenny Associates, LLC, dated June 3, 2020.

Ms. Tomaszewski reported that the environmental response confirmed that the pond was man-made, likely between the years 1934-59, and prior to the development of individual lots in the subdivision. Modifications may have been made to the pond to better fit the drainage and storm water management needs of the road and other related development. The analysis did not establish the pond's origins in wetland soil areas. Ms. Tomaszewski went on to report that core analyses conducted by William Kenny Associates showed that the pond's shallow waters overtops a thick "muck layer" ranging from approximately 1.5 to 2.75 feet in depth. Unsorted gravels were identified below the muck layer. Further review of the cored materials indicated that the original depth of the pond was approximately six (6) feet, which is consistent with the current dredging proposal. Currently, the pond is heavily eutrophic with dissolved oxygen at "very low levels." Most of the pond surface is covered by Duckweed and other aquatic vegetation. Removal of the approximately 5,400 cubic feet of muck and other related materials will eliminate the accumulated sediments, organics, and nutrients that have reduced water depth, elevated water temperatures, reduced oxygen levels, enabled choking weeds to proliferate. The report went on to note that the pond currently shows evidence of some amphibian life, and it is anticipated that the creation of the deeper, cooler waters will restore fish populations and attract both wading birds and other forms of wildlife. Ms. Tomaszewski went on to note that the proposal now includes provisions for the creation of several pools during the dewatering and excavation process to enable any resident amphibians to assemble and be relocated to undisturbed space as necessary.

Dr. Shemitz stated that the record shall underscore the seriousness by which the Board evaluates dredging proposals. The questions and concerns raised by members at the April meeting were essential to the review of the permit application, and greatly appreciates the applicant's well-written and thorough responses.

William Kenny acknowledged the receipt of the revised agenda summary report, and offered no objection to any of its findings or recommendations.

Motion/Vote: Upon a motion by Ms. Tessier, and seconded by Dr. Shemitz, the Board voted to **APPROVE** EPB Permit Application No. 2020-04 with the conditions outlined in the EPB Agenda Summary Report, revised June 12, 2020.

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

2020-13 – 303 Rocky Rapids Road – Lot K-34 – E. Werner and C. Berman: Install fencing for a dog run proximate to wetlands and pond situated in the drinking water supply watershed of the Mianus River. The property lies along the north side of Rocky Rapids Road, approximately 835 feet east of Ridgecrest Road and is identified as Lot K-34, Account 000-9566, Card W-013, Map, 48,

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Block 394, Zone RA-1, and 1.411 Acres.

Reference is made to an EPB Staff Agenda Summary Report, dated June 12, 2020.

In Attendance: Cheryl Berman
Eric Werner
Jerrold Blair

Discussion: Ms. Fausty summarized the application for the Board. Ms. Fausty reported that the applicant seeks the Board's permission to install fencing and dog run proximate to wetlands and a lake on the property. The parcel, which lies along the north side of Rocky Rapids Road, approximately 835 feet east of Ridgecrest Road, currently supports a single family, drive, patios, walkways, septic system, well and other related features. The site is characterized by the presence of gently to moderately sloping developed lands, portions of a large, open body of water, and designated wetlands that are confined to either an isolated pocket to the west or border the pond's edge to the north.

Ms. Fausty reported that the space affected by the project lies in lawn or terraced landscaped areas situated approximately 20-75 feet to wetlands and 60-120 feet to the water's edge. Disturbance is expected to be minimal, and impacts to the regulated areas acceptable. The applicant reports that approximately 151.2 square feet of the upland review area shall be impacted by the project. Ms. Fausty went on to note that the pond's edge was recently enhanced with several plantings to mitigate minor clearing observed during a prior "emergency septic repair." Given the de minimus impact of the fence project, no further planting has been proposed by the applicant or recommended by Staff.

Jerold Blair, an abutting neighbor, addressed the Board, stating that the pond is a "treasure" and that the installation of a fence would be both "unsightly" and "objectionable" to anybody owning property on the on this body of water.

Mr. Stone noted that "aesthetics" is not a factor accounted for in the Board's decision making, but certainly, Mr. Blair's comments would be noted in the record.

Ms. Berman acknowledged the receipt of the agenda summary report and offered no objection to the findings or recommendations noted therein.

Motion/Vote: Upon a motion by Mr. Kozlowski, and seconded by Ms. Ley, the Board voted to both **ACCEPT** and **APPROVE** EPB Permit Application No. 2020-13 with the conditions outlined in the EPB Staff Agenda Summary Report, dated June 12, 2020.

In Favor: Stone, Shemitz, Ley, Tessier, and Kozlowski.
Opposed: None
Abstaining: None
Not Voting: None

Site Plan Reviews: None

Subdivision Reviews: None

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Enforcement – Status Reports & Show Cause Hearings:

26 Pinnacle Rock Road – Lot L-3 – J. Blair – Enforcement Action/Show Cause Hearing: Show Cause Hearing to consider circumstances relative to a reported violation of Section 4.1 of the “Inland Wetland and Watercourse Regulation of the City of Stamford” by depositing material, grading, installation of a play set, patio and shed, disturbance of indigenous vegetation, tree removal and other related disturbances in and or proximate to wetlands and a pond. The property lies along the west side of Pinnacle Rock Road, approximately 285 feet North of Rocky Rapids Road, and is identified as Lot L-3, Account 000-8932, Card W-003, Map 48, Block 394, Zone RA-1, and +1.52 Acres.

Reference is made to EPB Staff Agenda Summary Report, dated June 13, 2020.

In Attendance: Jerrold Blair
Douglas DeLuca
Eric Werner
Cheryl Berman

Discussion: Ms. Fausty summarized the enforcement action for the Board. As reported by adjoining property owners and verified by EPB Staff, materials had been deposited, soils excavated, surfaces graded, structures installed (including a play set, patio and shed), and indigenous vegetation removed and/or altered in and/or proximate to wetlands and a pond. Ms. Fausty noted that given the absence of prior permits from the Environmental Protection Board, these activities violate of Section 4.1 of the “Inland Wetland and Watercourse Regulations of the City of Stamford.

Ms. Fausty then provided a detailed accounting of the activities and actions leading the petitioning of Board Members and the issuance of a Cease and Desist Order on June 12, 2020. In her description of the circumstances, Ms. Fausty, reported that the unpermitted regulated activities continued after Staff contact and notice, that measures required to protect both resources and water quality remained inadequate, and arrangements for a supervised inspection of the parcel by Staff was unnecessarily delayed.

Jerrold Blair addressed the Board, noting that the activities conducted to date were limited to the removal of several storm damaged trees along with accumulated brush, wood, stone and related materials, primarily from the sloping space adjoining the lake. He asserted that there were no fills deposited in regulated areas. Mr. Blair reported that following his communications with Staff, work was terminated, and a length of silt fence was installed to limit the potential for further impact. Mr. Blair stated that he was surprised by the order given the scope of the project and his responsiveness to prior Staff directives.

Extensive discussion ensued on a broad range of topics including but not limited to the scope of excavation in the regulated area, allegations relating to the burial of brush, the duration of the project (post notice), and the adequacy of the protective erosion controls, the impartiality of the regulatory and enforcement process, and the necessity of an advanced enforcement action. Most notably, the Board members expressed deep concern about the measures necessary to protect that lake while a proper restoration/enhancement plan is generated, and the reported delays in the scheduling of a

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site inspection. Ms. Tessier noted that given the slope and appearance of the soils, that a typical row of silt fence installed along the edge of the pond will need to be augmented with an additional row of silt fence, coir logs, staked hay bales, or and other similar measures to slow the stormwater and reduce the potential for damaging erosion/sedimentation. Mr. Kozlowski asserted that a supervised inspection was needed to be immediately scheduled by the owner to enable Staff properly evaluate impacts and provide guidance in the restoration process as it moves forward.

Staff recommendations for corrective action were outlined in the EPB Staff Agenda Summary Report, dated June 13, 2020. The report, which had been previously forwarded to the owner, suggested that the Board maintain the cease and desist order in effect, and modify the order to require the following:

1. Immediately install silt fencing or similar erosion control down gradient of the disturbance to protect the wetlands and pond.
2. Provide an updated improvement location survey (ILS) by a Connecticut Land Surveyor (signed/sealed) of the property to EPB depicting wetlands, wetland and watercourse setback areas, all existing features, and limits of disturbance due to unauthorized activities no later than July 10, 2020.
3. Submit a report assessing current conditions, type of fill materials, impacts to natural resources, and recommendations for restoration and stabilization to be prepared by a qualified professional with expertise in wetlands evaluation no later than July 10, 2020.
4. Submit a restoration plan to EPB to mitigate for disturbance within regulated areas, restore regulated areas to conditions prior to the current violation and previous activities, including restoration of the soil profile throughout the disturbed areas. The plan should provide name, quantity, location, size and type of plants and be submitted no later than July 10, 2020.
5. The Landscape plan once approved by EPB shall be implemented no later than August 30, 2020.
6. All landscaping and all mitigation measures shall be implemented under the supervision of a certified landscaping and wetlands professional with written certifications (signed/letterhead) submitted to EPB Staff upon completion.
7. A standard, City of Stamford, landscape agreement to ensure the survival of all proposed landscape enhancements shall be filed upon completion.

Note that Staff further requested, that the Board authorize Staff to file a Notice of Violation on the Stamford Land Records, and to publish a notice of Facts and Conduct in a newspaper having general circulation in the City of Stamford, and to notify the Corporation Counsel to pursue all necessary actions to gain compliance, if the violation is not resolved in the manner and time frame outlined above.

Extensive discussion ensued between Board members on the enforcement recommendations.

Motion/Vote: Upon a motion by Ms. Tessier, and seconded by Dr. Shemitz, the Board voted to **MAINTAIN** the cease and desist order in effect, and **MODIFY** the order to require submission and

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implementation of a comprehensive restoration proposal as outlined in the EPB Staff Agenda Summary Report, dated June 13, 2020 modified to include provisions for timely on-site Staff inspections, and the use of enhanced erosion control measures to prevent impacts. The Board further authorized EPB Staff to **FILE** a notice of violation on the Stamford Land Records, and to both **PUBLISH** notice of facts and conduct in a newspaper having general circulation in the City of Stamford, and **NOTIFY** the Corporation Counsel to pursue all necessary actions to gain compliance if the violation is not resolved in the manner and timeframe prescribed by the agency.

In Favor: Stone, Shemitz, Ley, Tessier, and Kozlowski

Opposed: None

Abstaining: None

Not Voting: None

Other Business: None

ADJOURN:

Adjourn the Regular Meeting of June 18, 2020:

Motion/Vote: There being no further business, and upon a motion by Dr. Shemitz, and seconded by Ms. Tessier, the Board voted to **ADJOURN** the Regular Meeting of June 18, 2020.

In Favor: Stone, Shemitz, Ley, Tessier, and Kozlowski

Opposed: None

Abstaining: None

Not Voting: None

Meeting adjourned at 9:04 PM.

Gary H. Stone, Chairman
Environmental Protection Board

V1 – 7/10/2020

V2 – 7/17/2020 ATB

V3 – 7/23/2020 Final ATTC