

FINAL

**ENVIRONMENTAL PROTECTION BOARD
CITY OF STAMFORD
MINUTES OF THE FEBRUARY 15 , 2024
REGULAR MEETING
CONDUCTED VIA INTERNET AND CONFERENCE CALL**

MEMBERS PRESENT:

Gary H. Stone, Chairman
Laura Tessier, Member
Leigh Shemitz, Member
Thomas Romas, Alternate Member

MEMBERS NOT PRESENT:

Todd Gambino, Member
Stephen Schneider, Alternate Member

STAFF PRESENT:

Robert Clausi, Executive Director
Courtney Fahan, OSS, Land Use Bureau

Mr. Stone called the meeting to order at 7:30 p.m.

➤ **MINUTES:**

January 18, 2024 (Regular Meeting)

The Board considered the minutes of the January 18, 2024 Regular Meeting. Members who were present at that meeting and eligible to vote were Mr. Stone, Ms. Tessier, Dr. Shemitz and Mr. Romas. No modifications were recommended.

Motion/Vote: Upon a motion by Mr. Romas and second by Ms. Tessier, the Board voted to ACCEPT the Regular Meeting Minutes of January 18, 2024.

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

➤ **APPLICATIONS & PERMITS:**

Acceptances/Extensions/Withdrawals

#2024-04 – 150 Interlaken Road – Tigue & Bond Inc. for Aquarion Water Company

Install release flow meter and vault on North Stamford Reservoir Dam

Mr. Stone acknowledged receipt of the minimum information necessary to accept EPB Permit Applications #2024-04.

Motion/Vote: Upon a motion by Ms. Tessier and second by Mr. Romas, the Board voted to ACCEPT EPB Permit Applications #2024-04.

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

Action Items

#2023-22 – 65 Stanton Lane – Jessica Domiziano

Construct residential additions and drainage system proximate to wetlands

In Attendance: No one

Mr. Clausi spoke on behalf of Environmental Analyst Pamela Fausty, who is waiting for several items from the applicant before she will be ready with a recommended course of action for the Board. Mr. Stone asked if any Board member had an additional question or concern about this application. Ms. Tessier asked if rip rap will be needed around the pop-up high overflow emitter from the subsurface infiltrators. Mr. Clausi noted such an energy dissipator would probably not be needed in this level area, but this question will be relayed to the applicant for their consideration.

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

Motion/Vote: Upon a motion by Ms. Tessier and second by Mr. Romas, the Board voted to DEFER rendering a decision on EPB Permit Application #2023-22.

In Favor: Stone, Tessier, Shemitz, and Romas

Opposed/ Abstaining/ Not Voting: None

#2023-26 – 23 Laurel Road – Aleksandra Moch for TGF Holdings LLC

Construct residential additions and drainage system proximate to wetlands and watercourses

In Attendance: No one

Reference was made to the correspondence from Aleksandra Moch, dated February 8, 2024 granting the Board an extension of the statutory deadline for a decision. No Board action required.

#2023-27 – 736 Den Road – Aleksandra Moch for Donald Brogqi

Install stormwater management system proximate to wetlands and within a conservation easement

In Attendance: Aleksandra Moch, Soil and Wetland Scientist
Wayne D'Avanzo, P.E.

The application summary Mr. Clausi presented on behalf of Environmental Analyst Jaclyn Chapman provided details of the project and discussed the impacts to the area from the work that is proposed. The residential addition, pool, and patio proposed in the northeast portion of the property beyond the upland review area require installation of additional stormwater detention. The only location available that has suitable soil and is far enough from the septic system and other structures is in a lawned portion of the conservation easement adjacent to the existing infiltration system, which was approved by the EPB in 2019.

General discussion followed between the Board members, staff, and the applicant's agent, Ms. Moch, concerning the project and the conservation easement. Ms. Moch presented slides to illustrate the condition of the site and Mr. D'Avanzo clarified that ledge removal will be associated with the work in the northeast portion of the property, not the infiltration system. In response to a question from Ms. Tessier, Ms. Moch explained that the soils in the area where the infiltration system is proposed are upland soils, not the organic Catden soils found in the nearby wetland.

In response to a question from Mr. Stone about the language of the conservation easement presented by Ms. Moch, Mr. Clausi stated that it is up to the Board's judgement and discretion whether a structure proposed in an easement and any proposed mitigation for the encroachment are acceptable. Each case should be considered on a site-specific basis. In this instance, the nearby pond and remainder of the easement will be protected by erosion controls while the structure is installed, the installation area will be restored to its current lawned condition after this subsurface structure is in place, and the tree that needs to be removed to complete this work will be replaced.

Dr. Shemitz voiced a concern that 1:1 replacement may not be sufficient mitigation for the tree to be removed, to which Ms. Moch replied that several shrubs could also be planted to restore the area while preserving the owner's view of the pond from their house.

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

Motion/Vote: Upon a motion by Dr. Shemitz and second by Mr. Romas, the Board voted to APPROVE EPB Permit Application #2023-27 with the ten recommended conditions of approval contained in Agenda Summary Report dated February 9, 2024 plus a modification of condition #4 leaving it up to EPB staff to determine whether the planting plan is sufficient mitigation for the tree that is to be removed.

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

#2024-01 – 175 Blackberry Drive – Paul Sparacino

Install generator and propane tanks proximate to wetlands and watercourses

In Attendance: No one

The application summary Mr. Clausi presented on behalf of Environmental Analyst Jaclyn Chapman provided details of the project and discussed the minimal chance this project will result in adverse wetland/watercourse impacts.

After hearing no comment from any Board member, Mr. Stone asked for a motion from the Board.

Motion/Vote: Upon a motion by Mr. Romas and second by Ms. Tessier, the Board voted to APPROVE EPB Permit Application #2024-01 with the six recommended conditions of approval contained in Agenda Summary Report dated February 9, 2024.

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

#2024-02 – Hunting Ridge Road bridge over E.Branch Mianus River – COS Engineering Bureau

Replace bridge No. 135009

In Attendance: Louis Casolo, Stamford City Engineer
Paul Brand, GM2 Associates, Inc.

The application summary Mr. Clausi presented provided details of the project and discussed the impacts to the area from the work that is proposed. Mr. Clausi noted that the Engineering Bureau's consultant, GM2, has provided calculations and certifications that new bridge and associated roadway improvements will somewhat reduce the incidence of flooding over the road without increasing the base flood elevation. Mr. Clausi recommended the Board approve this application with the conditions provided in the staff report.

In response to a question from Mr. Romas, Mr. Clausi explained that the silt sacks will only be used in the new catch basins during construction. Ms. Tessier emphasized the importance of staff oversight of this project and recommended an additional condition of approval requiring the use of mechanical rather than chemical invasive plant controls.

Mr. Casolo told the Board that the bridge is in very poor condition and this project needs to be implemented immediately now that easement agreements have been reached with all of the affected abutting neighbors.

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

Motion/Vote: Upon a motion by Ms. Tessier and second by Mr. Romas, the Board voted to APPROVE EPB Permit Application #2024-02 with the nine recommended conditions of approval contained in Agenda Summary Report dated February 8, 2024, plus an additional condition requiring removal of invasive species by mechanical rather than chemical means.

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

#2024-03 – 83 Camp Avenue – Steve Mickels

Continue use of property in special flood hazard area to store landscaping materials

In Attendance: Joseph Capalbo, Attorney

The application summary Mr. Clausi presented on behalf of Environmental Analyst Jaclyn Chapman provided details of the project and discussed the impacts to the area from the work that is proposed. He noted that Ms. Chapman's report recounts the application that was made for this purpose but was denied by the Board last year, and itemizes a number of substantive issues with the current application that staff has instructed the applicant to address. Mr. Clausi invited the members to comment on any additional issues they feel the applicant needs to address and recommended the Board defer making a decision on this application until the record is complete.

Mr. Capalbo, speaking on behalf of the applicant, stated that they are going to address all of the outstanding issues within the next month and that the applicant is keeping the property as clean as he can. He added that the applicant has hired a second engineering firm to do a peer review of the plans being developed by their primary engineer.

Hearing no additional concerns from the members or further discussion, Mr. Stone asked for a motion from the Board.

Motion/Vote: Upon a motion by Ms. Tessier and second by Mr. Romas, the Board voted to DEFER rendering a decision on EPB Permit Application #2024-03.

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

- **SUBDIVISION REVIEWS:** None
- **SITE PLAN REVIEWS:** None

➤ **SHOW CAUSE HEARINGS/ENFORCEMENT:**

35 Bird Song Lane – Gregory Moore – Show Cause Hearing

Unauthorized construction of boulder retaining walls with associated fill in wetlands and upland review areas

In Attendance: Gregory Moore, Owner

Mr. Clausi summarized the February 8, 2024 Enforcement Report prepared by Environmental Analyst Pamela Fausty. As noted in the report, in the recent past a significant amount of fill has been deposited, a new retaining wall has been built, and natural vegetation has been impacted at 35 Bird Song Lane. The improper construction of the retaining wall has led to ongoing erosion into wetland and buffer areas beyond the wall. The wall has also been posted as a code enforcement violation by the City of Stamford Building Department for having been built without a building permit. The Cease & Desist Order sent to Mr. Moore via certified mail on February 8, 2024 stated the compliance issues on his property and informed him that this Show Cause Hearing had been scheduled.

Mr. Moore stated that he gave the City permission to install the outfall of the roadway drainage system on his property, but he had nothing to do with the wall, fill, etc. that are the subject of this enforcement action, and he derives no benefit from them. Mr. Clausi and Mr. Stone explained to Mr. Moore that it is the responsibility of the owner to resolve violations on their property regardless of whether they created them.

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

Motion/Vote: Upon a motion by Dr. Shemitz and second by Ms. Tessier, the Board voted to MAINTAIN the Cease and Desist Order.

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

0 Farms Road – Aquarion Water Company – Show Cause Hearing

Unauthorized diversion of watercourse and replacement of watercourse crossing

In Attendance: Dennis Fields, Aquarion Water Company, Senior Project Manager

Mr. Clausi summarized his February 12, 2024 Enforcement Report, described the unauthorized activities staff recently found Aquarion is conducting on Farms Road, and laid out recommendations for correcting this situation.

Mr. Fields explained Aquarion had been working on plans to replace the crossing but had to rush into action when a recent storm washed the culvert out to the point where access for workers to maintain and operate the Bargh Reservoir dam and water supply to Greenwich was cut off.

Motion/Vote: Upon a motion by Ms. Tessier and second by Mr. Romas, the Board voted to Maintain the Cease & Desist Order that was issued to Aquarion on February 9, 2024 and issue an Order to Correct with conditions which provide for EPB staff oversight of the completion of the project and restoration of areas which have been disturbed in the course of the work.

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

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
Gregory Moore, Owner 35 Bird Song Lane
Louis Casolo, Stamford City Engineer

Mr. Clausi made reference to a plan entitled “Composite of plans with which to begin discussion of restoration needed at 46 and 35 Bird Song Lane” as he provided the Board with his recommendations for how to correct the related violations at these two properties, which include the property owner(s) retaining a civil engineer to develop a plan for a code-compliant retaining wall which would likely require removal of portions of the wall and fill – particularly from 35 Bird Song Lane and adjacent area on #46, and removal of the sediment deposits that have migrated through the wall.

Dr. Shemitz stated she had visited the site and observed the sediment deposits noted above. She asserted that anything but joint implementation by these two property owners of the remediation laid out by Mr. Clausi would be counterproductive. Ms. Tessier stated she too had visited the site and, in general, agreed with Mr. Clausi’s recommendations. She said the situation is troubling to her, but the height of the wall and size of the boulders is “staggering”. Ms. Tessier felt proper remediation will require the removal of all boulders and fill from within 25 feet of the wetland/watercourse on #35. She also stated she would prefer the height of the wall on #46 to be lowered, but would leave that up to the design devised by the engineer.

After the Board and those in attendance concluded a good deal of discussion about how this situation came to pass, the Board turned its attention back to what must be done to resolve the compliance issues on these two properties.

Motion/Vote: Upon a motion by Ms. Tessier and second by Mr. Romas, the Board voted to maintain the Cease of Desist Order at 46 Bird Song Lane.

The Board then gave guidance as to the elements it requires in an acceptable restoration plan for 46 and 35 Bird Song Lane. The owners shall be directed to prepare a restoration plan, either jointly or separately, based on, as a minimum, the following guidelines:

1. Retain the services of a professional civil engineer to develop a plan in which any remaining retaining wall is compliant with the Building Code and does not allow migration of soil through the wall toward wetland and watercourse areas.
2. The plan that is developed shall include removal of the retaining wall and fill from within 25 feet of the wetland/watercourse on 35 Bird Song Lane.
3. The plan shall include a restoration planting plan for the area exposed when the wall and fill are removed from within 25 feet of the wetland/watercourse on 35 Bird Song Lane.
4. Visible sediment deposits beyond the boulder retaining wall shall be removed.

The Board did not set a deadline for submission of the plan.

In Favor: Stone, Tessier, Shemitz, Gambino, and Romas
Opposed/ Abstaining/ Not Voting: None

➤ **OTHER BUSINESS:**

Discussion of amendment of the Stamford Inland Wetlands and Watercourses Regulations

Mr. Clausi oriented the members to the materials he delivered to them in their packets on February 9th, which included a first draft of Section 1.1 of the revised regulations, several definition and other suggestions provided by Ms. Tessier, and several adjustments made after receiving feedback from the Connecticut Department of Energy & Environmental Protection and the City's Law Department. Mr. Clausi then went through the items he had listed in his 2/9/24 memo as remaining for the Board to weigh in on. The general sense provided by the Board was that staff should draft what they feel is appropriate for the more straightforward items, such as adding a phrase about the climate mitigation function of wetlands to Section 1.1, staff should follow up with the Law Department on whether the Board's current "no net loss policy" is legally acceptable, and more thought should be put into whether changes to width of the EPB upland review areas are warranted.

Mr. Clausi proposed to incorporate the agreed upon items in a draft that he would like to send to the Law Department for their overall review once the Board members OK it, and that any items that may remain outstanding can be sent to the Law Department separately once they are decided upon. The members agreed that this was an acceptable course of action. No formal action was taken by the Board.

➤ **ADJOURN:**

Motion/Vote: Upon a motion by Mr. Romas and second by Ms. Tessier, the Board voted to ADJOURN the Regular Meeting of February 15, 2024.

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

The meeting adjourned at 10:23 p.m.

Gary H. Stone, Chairman
Environmental Protection Board