

**ENVIRONMENTAL PROTECTION BOARD
AGENDA SUMMARY REPORT**

APPLICATION:	EPB #2921, FCB REM, LLC	DATE:	November 16, 2009
LOCATION:	53 Wire Mill Road – Lot 3B	ZONE:	R-10
WATERSHED:	Rippowam River	AREA:	0.43 Acres

REFERENCES:

- “Limited Grading Plan,” 53 Wire Mill Road, Stamford, Connecticut, Prepared for FCB REM, LLC, Stamford, Connecticut, by E.J. Frattaroli, Inc., dated November 13, 2009.
- “Open Space Planting Plan,” 53 Wire Mill Road, Stamford, Connecticut, by Environmental Land Solutions, LLC, dated November 13, 2009.
- Correspondence from John Pugliesi, P.E., E.J. Frattaroli, Inc., dated November 16, 2009.

REGULATED ACTIVITIES:

The applicant seeks the Board's permission to allow expansion of an existing asphalt driveway and turn around area, construct a low profile retaining wall, grade, and landscape in and proximate to a designated open space/conservation easement area.

HISTORY:

The lot was the product of a proposed two (2) lot subdivision of property that was reviewed and approved by the City Boards in the Summer of 2006 (53 Wire Mill Road, 53 Wire Mill, LLC, PB No. 3934, 8/9/06). The subdivision was approved with thirteen (13) conditions including the designation of approximately 5,245 square feet of land area as open space/conservation easement, pinning of the open space/conservation easement boundary with iron pins, delineation of the common driveway easement on the final map, preservation of significant trees to the extent feasible, submission of a landscape maintenance agreement to ensure the success of landscape features introduced onto the property, submission of a sight line agreement, streetscape subject to the review and approval of the Tree Warden/EPB Director, City Engineering approval for the final storm water management scheme, prohibition on the use of in-ground fuel storage tanks, submission of a final erosion control plan, filing of a performance surety, and application of final map references on the plan.

The record seems to indicate that the open space was chosen to preserve some of the wooded character of the property – an attribute that would contribute to the aesthetics of the neighborhood and provide a buffer/screening to residences on adjoining properties (Emerson, 6/2/06).

Conservation, landscape and site line maintenance agreements were executed and filed in the Stamford Land Records in 2006-2008 (Conservation Agreement, 8897/0001, 2/26/07, Landscape Agreement, 8817/0008, 12/18/06 and Site Line Maintenance Agreement, 9366/146, 6/6/08).

Building permits for both parcels were authorized by EPB Staff in December, 2006. The approved site development plan, "Engineering Site Plan," 53 Wire Mill Road, Stamford, Connecticut, Prepared for 53 Wire Mill Road, LLC, by TDN Engineering, LLC, revised August 15, 2006 provided for the development of both parcels with dwellings, drives, drainage, and other related facilities without encroachment into the designated open space/conservation easement.

In September, 2009, EPB and Engineering Bureau Staff inspected the property, finding numerous inconsistencies with both the subdivision concept and approved development plans (Talamelli to Pugliesi, 9/2/09). Of note, were the excessively narrow lengths of drive, shortened back-up/turn around areas, and altered topography/vegetation in/proximate to the designated open space/conservation easement areas. Many of these inconsistencies were the result of the developer's failure to locate the drive, orient that dwelling, grade and maintain construction controls in accordance with the approved development scheme. It is noted that the developer is no longer involved in the project, and the property has fallen into the hands of a local banking institution. It is further noted that the project is the subject of several complaints filed with Citizen's Services and/or EPB Staff (Vitti, 12/07 – 5/08 and Papademetriou – 11/09). Complaints include, but are not limited to property line encroachment, overzealous grading, vegetation removal, and drainage/visual impacts.

On October 13, 2009, the EPB received this permit application to allow expansion of an existing asphalt driveway and turn around area, construct a low profile retaining wall, grade, and landscape in and proximate to a designated open space/conservation easement area (Frattaroli, 10/6/09).

On October 15, 2009, EPB Staff made the necessary referrals to the Town Clerk and Libraries (Talamelli to Loglisci, Gong and Baldwin, 10/15/09).

On October 16, 2009 Environmental Protection Board Staff initiated its review of the subject permit application, finding that the following additional information was required to assess potential impacts on conservation resources and ensure consistency with the provisions of Stamford's Inland Wetland and Watercourse Regulations:"

1. Statement and appropriate support documentation by a Connecticut Engineer confirming that the project, as proposed, will not have a significant adverse impact on drainage, soils, adjoining properties or the performance of the existing drainage systems/structures. Responses shall be transmitted to the Stamford Engineering Bureau (by this office) for review/comment.
2. Wall details, clarification of notes, erosion controls (as necessary) and appropriate spot elevations to confirm all anticipated grade change.
3. Measures to mitigate for the anticipated loss of open space, offset potential impacts of the proposed development, and/or enhance site conservation values. In this particular instance, the proposed mitigation may include a detailed landscape plan to eliminate manicured surfaces and enhance the function of the existing open space/conservation easement areas with a diverse collection of conservation plantings/natural soil treatments. Note that any landscape plan shall be developed by a qualified landscaping professional and include the location, name, number, type, size, and root type of the plants proposed.

On October 22, 2009, the application was formally accepted by the EPB (Talamelli to FCB REM, LLC, 10/26/09, 7001 0360 00002 8048 5457).

Additional information was transmitted to the EPB on November 16, 2009.

SITE CHARACTERISTICS:

The subject property lies along the south site of Wire Mill Road, approximately 550 feet west of Hunting Lane, and is identified as Lot 3B, List 004-4085, Card S036A, Block 359, 0.43 Acres in records maintained by the Stamford Tax Assessor.

The site currently supports a new single family dwelling, drive, walkways, walls, sanitary sewer, well, and other related facilities. The property is generally characterized by the presence of gently to steeply sloping uplands, narrow strips of land designated as open space/conservation easement, and a few small to moderately sized trees. There are no wetlands, watercourses or special flood hazard areas on this site. The subject property lies within the non-drinking water supply watershed of the Rippowam River.

PROPOSAL/ISSUES:

The applicant seeks the Board's permission to utilize approximately 356.8 square feet of the designated open space preserve/conservation easement to allow the substandard portions of the driveway to be expanded to the minimum ten (10) foot width required for a common drive, provide the back-out necessary to enable an owner to better enter/exit the garage, and implement the corrective measures necessary to appropriately protect the adjoining properties from the effects of drainage, overgrading, and other encroachments. In these circumstances, the applicant is required to seek remedies to the unauthorized offsite encroachments, confirm the absence of drainage impact, provide adequate erosion/construction controls, examine possible alternatives to avoid/minimize impacts, and evaluate measures to compensate for unavoidable encroachments/impacts on the regulated areas.

The applicant sought to address these matters as follows:

- Remedy the offsite encroachments/impacts and offset potential drainage impacts by installing a low profile retaining wall (60 LF of Modular Block Wall, 24" Maximum), regrading existing fill materials, and restabilizing the disturbed earth surfaces. No additional significant trees shall be removed as a result of the project. A wall detail has been provided by the applicant ("Limited Grading Plan," Pugliesi, 11/13/09). The grading plan seeks to direct drainage from additional lawn/landscape areas (and potential snow stockpile areas) away from the abutters to the existing drive and on-site drainage systems.
- Provide a statement from a Connecticut Engineer confirming the absence of impact on drainage, adjoining properties and the existing on-site stormwater detention systems (Pugliesi, 11/16/09). Plans and correspondence were forwarded to the Engineering Bureau for review and comment (Talamelli to Gentile, 11/16/09). A response has yet to be received.
- Apply erosion control measures consisting of perimeter silt fence and the application of final soil stabilization measures upon completion ("Limited Grading Plan," Pugliesi, 11/13/09).
- Embrace alternatives having less of an impact on the regulated areas. In response to the concerns raised by Staff and the abutting property owners, the applicant has revised the plans to lessen the amount of pavement necessary to widen the drive and lengthen the turn around areas ("Limited Grading Plan," Pugliesi,

11/13/09). The revised plan reduces the amount of pavement from approximately 382 square feet to 356.8 square feet, reduces the long term commitment of open space to urban uses, increases the setback to the property boundary, and increases the total width of potentially plantable space.

- Compensate for the encroachments into the open space/conservation easement and addressing the need to provide important visual/conservation enhancements by supplying a revised landscape plan. The plan provides for the removal of lawn grass from the open space/conservation easement areas, the application of 2.5-3" of bark mulch to stabilize the disturbed earth surfaces, and the addition of numerous trees (Holly – 1, Arborvitae - 18) and shrubs (Inkberry – 14, and Cranberrybush – 10), particularly in the eastern reaches of the site. Many of the planting proposed by the applicant have substantial screening and conservation value.

OPTIONS/RECOMMENDATIONS:

This applicant seeks to remedy certain observed inconsistencies with the approved subdivision and development schemes. These variations have diminished the value and functionality of the property, impacted a designated open space/conservation area, and potentially affect parcels held by the abutters. The actions taken by the "applicant," as part of this application process, although resulting in a long-term commitment of approximately 356.8 square feet of open space/conservation easement, are sound and responsive to the identified issues. Benefits will be recognized by the current applicant, adjoining property owners, and the environment in this particular area. It is noted that on this land and resource starved parcel, a mitigation package consisting of functional conservation planting and screening within the existing open space may be of greater value than one that provides for additional open space.

Accordingly, pending the receipt of a positive endorsement of the drainage statement by the Stamford Engineering Bureau, and if the Board confirms that the proposed activities will have an acceptable impact on regulated area and adjoining properties, that no reasonable alternatives for development exist, and that appropriate mitigation has been provided, the Board may act to **APPROVE** EPB Permit Application No. 2921 with the following conditions:

1. Work shall comply with the following plans and correspondence:
 - "Limited Grading Plan," 53 Wire Mill Road, Stamford, Connecticut, Prepared for FCB REM, LLC, Stamford, Connecticut, by E.J. Frattaroli, Inc., dated November 13, 2009.
 - "Open Space Planting Plan," 53 Wire Mill Road, Stamford, Connecticut, by Environmental Land Solutions, LLC, dated November 13, 2009.
 - Correspondence from John Pugliesi, P.E., E.J. Frattaroli, Inc., dated November 16, 2009.
2. Submission of a permit filing fee in the estimated amount of Fifty-eight and 00/100 Dollars (\$58.00) within fifteen (15) days of the decision's publication (on or about December 9, 2009).
3. A "Permit Compliance Fee" in the amount of Four Hundred and 00/100 Dollars (\$400.00) shall be filed with the Environmental Protection Board. The initial fee shall be submitted to the EPB prior to the start of any site activity. Subsequent fees shall be submitted on an annual basis on or before the anniversary of the permit's effective date until the project is satisfactorily completed. Said fee is required pursuant to Section 5.10b of the "Inland Wetland and Watercourse Regulations."

4. Submission of a performance bond, certified check or other approved surety to secure the timely and proper performance of: a) temporary and permanent sediment and erosion controls, b) wall construction, c) landscape/mitigation, and d) preparation of final improvement location surveys (“as-built plans”) and certifications. A detailed estimate of these costs must be supplied to EPB Staff for approval prior to the submission of the performance surety. The performance surety shall be submitted to EPB Staff prior to the start of any site activity.
5. Submission of a completed "Contractor's Compliance Statement" prior to the start of any site activity and issuance of a building permit.
6. All sediment and erosion and construction controls shall be installed in the manner and location shown on the permit plans prior to the start of any site activity and approved in writing by EPB Staff.
7. All grading, wall/drive construction, and final stabilization measures shall be conducted under the review and approval of a Connecticut Engineer/Surveyor with written correspondence (engineer) and an improvement location survey (surveyor) submitted to EPB Staff immediately upon the completion of work.
8. All landscaping and other restoration activities shall be conducted under the review of qualified landscape/environmental professional with written certifications submitted to EPB Staff immediately upon the completion of the work.
9. Execution and filing (Stamford Land Records) of a landscape modification agreement to ensure the long term survival of the revised schedule of mitigation plantings within 30 days (December 24, 2009) and prior to any projected transfer in title.
10. Execution and filing of a standard drainage facilities maintenance agreement to ensure the full and proper function of the detention facilities and other structures deemed necessary to mitigate adverse impacts. Said agreement shall be submitted within 30 days (December 24, 2009) and prior to any projected transfer in title. It is noted that a standard drainage agreement was not included as part of the subdivision approval.
11. Any components of the irrigation system that lie within the designated open space preserve/conservation easement shall be removed/relocated.

Richard H. Talamelli
Environmental Planner