

City of Stamford
ENVIRONMENTAL PROTECTION BOARD
INTEROFFICE CORRESPONDENCE

October 7, 2009

MEMO TO: EPB Members

FROM: David M. Emerson, Executive Director

SUBJECT: 57 Wyndover Lane – Lot 5

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STATUS SUMMARY

LOCATION: 57 Wyndover Lane – Lot 5

ZONE: RA-1

WATERSHED: Rippowam River

AREA: 1.46 acres

MAP REFERENCES:

“ Topographic & Zoning Location Survey”

“ Construction Plan”

prepared by: Rocco V. D’ Andrea, Inc.

dated: October 1, 2009

“ Environmental Planting Plan – 57 Wyndover Lane”

prepared by: Environmental Land Solutions, LLC.

dated: September 1, 2009

An inspection of the property on January 26, 2009 in response to a Citizen Services Complaint (CSC #102764) resulted in the determination that regulated buffer/setback areas had been impacted by construction activities and by other land-disturbing activities involving cutting of trees and excavation.

The construction of stone walls and alteration of the site within 25 feet of wetland areas and watercourses without the required EPB permit is a violation of the Board's regulations. Required permits from the Building Bureau and Zoning Enforcement Officer had similarly not been obtained prior to the start of work on site.

The property owner, Leandro Rizzuto, Jr., was notified through his attorney, Mr. Joseph Richichi, and the Board authorized the issuance of a Cease and Desist order with the required Show Cause Hearing held on February 19, 2009.

At that time, the Board considered the facts and circumstances pertaining to the unauthorized encroachments within regulated areas, including information provided on behalf of the respondent by Leonard C. D' Andrea, P.E., and determined to maintain the Cease and Desist Order in effect and to defer further action until its meeting scheduled for March 19th. This deferral was subject to the filing of an application for permit in a timely manner.

Subsequent to the hearing, an application for permit was filed and scheduled for acceptance by the Board.

On March 17th, a neighboring property owner reported that work occurred during the weekend within and near wetland areas of the property involving at least one excavating machine and including the cutting of trees. In response, the Board acted to maintain the Cease and Desist Order in effect, and to direct staff to file a Notice of Violation on the Stamford Land Records. Staff, at the time, advised not proceeding toward a decision on the newly filed application for permit as long as work continued on site contrary to the Cease and Desist Order.

During August 2009, it was determined, again originating with a citizen's complaint, that additional regulated activities were conducted within the property, including terrace construction, tree removal, and site grading. These activities were undertaken both after the conducting of the Show Cause Hearing and after the filing of the permit application. As recently as August 4th, drainage structures with associated backfill of broken asphalt were reported by former Stamford Representative Brien O' Neill to be under construction within regulated areas without any review or approval of any City agency.

At the August meeting, the Board found that the property owner was engaged in the ongoing implementation of regulated activities prior to the finalizing of a technical review of the proposed work, and prior to the Board rendering any decision. Relatedly, the Board expressed the opinion that it was being deprived of the opportunity and ability to impose any meaningful and necessary conditions of approval to ensure that all work is completed properly. Discussion included the apparent expectation of the applicant that he would be rewarded with a permit after having willfully and blatantly failing to meet his responsibilities and obligations under the regulations. The Board advised that no further work was to occur on site, and elicited the acknowledgement of the representatives of the applicant present at the meeting.

The Board, by consensus, elected to require the review of the status of the application prior to consideration of the request for a permit. A key element was identified as being the continuation of work on the property.

It has been determined that work has indeed continued. In its revisiting of the still pending enforcement action, the Board could elect to require that all unauthorized encroachments within regulated areas be removed within a specified time frame, and to direct staff to refer the matter to Corporation Counsel for legal action to achieve compliance if established deadlines are not met.

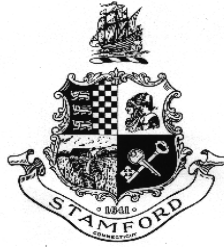
A suggested motion to achieve this outcome follows:

“ Move to maintain the Cease and Desist Order in Effect, and modify said order to require the removal of all unauthorized encroachments into regulated areas to include the removal of all fill and debris from within designated wetlands and buffer/setback areas of the property; removal of walkways, terraces, walls, and drainage structures constructed and/or installed within designated buffer/setback areas; with all affected areas restored with plantings as depicted on the “ Environmental Planting Plan – 57 Wyndover Lane” as prepared by: Environmental Land Solutions, LLC. and dated September 1, 2009. All work to be completed on or before November 30, 2009. Staff is directed to publish Notice of Facts and Conduct and to refer this matter to Corporation Counsel for legal action if the deadline is not met.”

If the Board approves the motion for the maintaining of the Cease and Desist Order, a second motion pertaining to pending application #2906 is advised. A suggested motion follows:

“ Move to deny application #2906 based upon the finding that the regulated activities as proposed are not consistent with the requirements of the Cease and Desist Order as issued by the Board on February 9, 2009 and modified on October 22, 2009.”

Please call me at 203-977-5021 with any questions.



City of Stamford
ENVIRONMENTAL PROTECTION BOARD
INTEROFFICE CORRESPONDENCE

August 7, 2009

MEMO TO: EPB Members

FROM: David M. Emerson, Executive Director

SUBJECT: 57 Wyndover Lane – Lot 5

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PROJECT STATUS SUMMARY

APPLICATION: #2906, Leandro Rizzuto, Jr.

LOCATION: 57 Wyndover Lane – Lot 5

ZONE: RA-1

WATERSHED: Rippowam River

AREA: 1.46 acres

MAP REFERENCES:

“ Construction Plan”
prepared by: Rocco V. D’ Andrea, Inc.
dated: June 30, 2009

“ Environmental Planting Plan – 57 Wyndover Lane”
prepared by: Environmental Land Solutions, LLC.
dated: March 2, 2009; revised: July 3, 2009

PROPOSAL: The applicant is proposing to maintain renovations of the existing dwelling including the construction of terraces, install drainage improvements, maintain stone walls, remove invasive species, and implement a restoration and landscaping plan within and proximate to wetlands and watercourses on property within the non-drinking water supply watershed of the Rippowam River at 57 Wyndover Lane.

Approximately 7,750 square feet of wetlands and 15,900 square feet of buffer/setback area will be affected by the various activities as calculated by the applicant as part of the original application.

It is noted that this application was filed in response to the Board's action at a Show Cause Hearing held on February 19, 2009 resulting from the issuance of a Cease and Desist Order.

It is further noted that additional regulated activities were conducted within the property, including terrace construction, tree removal, and site grading, both after the conducting of the Show Cause Hearing and after the filing of the permit application. As recently as August 4th, drainage structures with associated backfill of broken asphalt were reported by former Stamford Representative Brien O' Neill to be under construction within regulated areas without any review or approval of any City agency.

DISCUSSION: The property owner has been engaged in the ongoing implementation of regulated activities prior to the finalizing of a technical review of the proposed work, and prior to the Board rendering any decision. Relatedly, the Board is deprived of the opportunity and ability to impose any meaningful and necessary conditions of approval to ensure that any work is completed properly. One such condition, for example, would be the routine requirement that drainage improvements be implemented under the supervision of the project engineer.

The applicant, in the estimation of staff, is expecting to be rewarded with a permit after having willfully and blatantly failing to meet his responsibilities and obligations under the regulations.

The Board may elect to defer action on the application, and to revisit the still pending enforcement action. The Board could elect to require that all unauthorized encroachments within regulated areas be removed within a specified time frame, and to direct staff to refer the matter to Corporation Counsel for legal action to achieve compliance.

Opinions/thoughts invited.



Partially completed drainage sans erosion controls, supervision or approval.



Newly constructed terrace and walkway along pond sans approval.



Fill brought on site post orders.

EPB Meeting – August 20, 2009 – Excerpts From Meeting Tapes
(not intended as a “verbatim” transcript – tapes are available)

Mr. Stone – You’re saying that he’s stopped, that he’s gotten the message.

Mr. D’Andrea – What he did is in accordance with this latest plan. With the plan you have before you.

Mr. Stone – Right. But the status update will be to verify that the conditions on the site have not changed from tonight – from what’s on the application.

Mr. D’Andrea – And what’s shown in these pictures…is evidence.

Mr. Stone – If anything has changed, then we just basically refer this to Corporation Counsel and that’s it. We’re not involved in any consideration of the application.

Mr. Emerson – You don’t necessarily need a motion, you just need a consensus.

Mr. D’Andrea – And in that period of time, we usually respond. For instance, I’ll be responding to the Engineering Bureau comments.

Mr. Emerson – Yes, you will be prepared to present a complete application for consideration by the Board at the September meeting.

Mr. Richichi – So, during that period you will complete your review, work out details with Engineering, and next meeting if there’s been no change, the Board would approve the permit … could approve the application… and then he could proceed. I just want to get the ground rules down.

Ms. Hicks – As much as I’d like him to rip everything out and let it become a park, it seems that the reasonable thing to do is to maintain the cease and desist order and expect to have an application to review next month.

Mr. Stone – Not that we have a reasonable application, but that the application we’re reviewing is what the field conditions are with nothing changed. Could you live with that?

Mr. Morris – I could live with that.

Ms. Shemitz – I can't, but I'd be outvoted.

Ms. Hicks – I don't think anybody likes it.

Ms. Shemitz – I don't buy the logic, personally. My logic is still that its adding another month for somebody who's been willfully ignoring [the regulations] for six months.

Mr. Stone – What we're doing, we have the opportunity to maybe get this resolved. But we're making it clear that if the site changes, then we'll be doing exactly what you want.

Ms. Hicks – If he ignores everything again for another month, there's no question that there's nothing more we can do but send it to Corporation Counsel.

Mr. Stone – I think that's what we agree.

Mr. Stone – I would ask, if its not inappropriate, to change our agenda to have enforcement come first so that it's not awkward at the meeting. The enforcement issue is going to be – if there's a change in the site, from now, then we've all agreed that this is going up stairs. So I want to get the enforcement out of the way.

Mr. Levine – But do we know exactly how the site is now?

Mr. D'Andrea – I think I have it well documented in the photographs, which I can provide digitally to staff. We have a good record of that. I think I understand what the Chairman is saying is that you put it at the top of the agenda to see if there is any violation of the Cease and Desist. If the answer is , "No" then good. Then we would appear in the application agenda below.

Mr. Emerson – If they want to represent to the Board that they will accurately report the status of the site...

Mr. Levine – Now also, is there any chance of enforcement taking some time. Now we're hurting other applicants who are law abiding.

Mr. Emerson – I think this will be very quick. If I go out there next week and the driveway is all paved, then...

Mr. Stone – Then that’s it. It either is, or is not, … there’s no grey. It’s black and white. It’s either exactly the same as it was, or it’s not. If it’s the way it was then we go through the applications as they would normally be listed. If it’s not the way it was, then we go through the applications as they are listed, and when we get to this application, this application is no longer under consideration. And that’s it.

Mr. Emerson – Just one final thing – and I’ll rely on Mr. Richichi and Mr. D’Andrea – So we can avoid having to argue what constitutes a change. I mean if I go out and someone is cleaning – is washing the windows – that’s not a change. If they are paving driveway can we agree …

Mr. Stone – That’s a change.

Mr. Levine – That’s a change.

Mr. Emerson – Some place in between….

Mr. Stone – If they put down new flagstone walks, that’s a change. If they take plantings out, that’s a change. If they have put plantings in, that’s a change.

Mr. Emerson – Rather than come back and say, “That’s a change, but it was not in a regulated area so it doesn’t count” …

Mr. Stone – Any change. Any changes to the property.

Mr. D’Andrea – The only thing I intend to do on the site would be to dig the test pits that Engineering has asked us to do for the infiltrator system. But other than that, there should be no work on the site. I agree with that.

Mr. Emerson – But you understand what I’m trying to communicate as far as…

Mr. Stone – We’re not going to get … the point is we’re not going to get into semantics. If we have to get into semantics, then it’s over.

Mr. D’Andrea – I hear you.

Mr. Stone – So if someone says, “Oh, well, I didn’t realize that the play set I just put up because my grandchildren came for the weekend…” We’re not getting into it.

Mr. D’Andrea – Understood.



**NOTICE OF VIOLATION
ENVIRONMENTAL PROTECTION BOARD**

**Cease and Desist Order - Violation of the Inland Wetland and Watercourses Regulations
of the City of Stamford.**

The Owner: Leandro Rizzuto, Jr.
1 Revonah Circle
Stamford, CT 06905

The Property: 57 Wyndover Lane - Lot 5
Card S005, Parcel ID 002-0060

The Violation: The Environmental Protection Board of the City of Stamford (hereinafter referred to as "EPB" or "the Board") has found that Leandro Rizzuto, Jr. of 1 Revonah Circle, Stamford, Connecticut 06905 ("Owner") has undertaken the following: Land disturbing activities within and proximate to wetlands and watercourses, within and proximate to buffer/setback areas, and within the yard areas and along the pond involving cutting of trees and excavation, the construction of stone walls and other land-disturbing alterations of the site.

These activities have occurred on a property identified as 57 Wyndover Lane, Lot 5, in records maintained by the Stamford Tax Assessor (Card S005, Block, 360, Map 108).

By conducting these regulated activities without the prior written authorization of the Environmental Protection Board, Leandro Rizzuto, Jr. has violated Section 4.1 of the "Inland Wetland and Watercourses Regulations of the City of Stamford."

Violation History:

January 26, 2009 - Property was inspected by viewing from Wyndover Lane in response to a Citizen Service Complaint (CSC #102764) and telephone calls reporting that construction machinery was working proximate to ponds and streams on the property, and that construction and remodeling activities were occurring absent any posted Building Permit or recorded Zoning Permit at 57 Wyndover Lane. Reported activities included tree cutting, wall construction, and grading of extensive areas within the property with no erosion controls or other protective measures evident, addition of a second floor to the existing house, and other construction activities.

January 27, 2009 - The property owner was notified of staff findings through his attorney Joseph Capalbo, Esq. and informed that the status of compliance would be reviewed on or before January 30, 2009 with the consideration of the issuance of a Cease and Desist Order during the interim.

January 30, 2009 - After consideration of the facts and circumstances pertaining to site conditions and the failure of the owners to make any meaningful progress toward a resolution, the Board members authorized staff to issue a cease and desist order on or after February 9, 2009.

February 9, 2009 - Said order was sent to Leandro Rizzuto, Jr. of 1 Revonah Circle, Stamford, Connecticut 06905 by Certified Mail Return Receipt Requested (7006 0100 0002 0744 1653). A Show Cause Hearing was scheduled for Thursday, February 19, 2009 in the Planning Board Conference Room at the Stamford Government Center.

February 19, 2009 - Following a review of the file, and discussion with staff and a representative of the owner, at a Show Cause Hearing, the Environmental Protection Board voted unanimously to MAINTAIN the Cease and Desist Order IN EFFECT and MODIFY said order with further action deferred to March 19, 2009 pending the timely filing of an application for permit.

February 23, 2009 - Notice of the Board's decision was transmitted to Leandro Rizzuto, Jr., 1 Revonah Circle, Stamford, Connecticut 06905 by Certified Mail-Return Receipt Requested (7006 0100 0002 0744 1677). Public notice of the Board's decision was published in the ADVOCATE, a daily newspaper having a general circulation within Stamford, on

March 17, 2009 - A Citizen Service Complaint (CSC #104396) and telephone calls were received reporting that construction machinery was working proximate to ponds and streams on the property, and that a trailer was installed on the property. The continuation of work within the site was confirmed by correspondence provided on behalf of the respondent by Leonard C. D'Andrea, P.E., Rocco V. D'Andrea, Inc. and dated March 17, 2009.

March 19, 2009 - Following a review of the file, and discussion with staff and a representative of the owner, at a Regular Meeting of the Board, the Environmental Protection Board voted unanimously to MAINTAIN the Cease and Desist Order IN EFFECT and MODIFY said order to direct staff to file this Notice of Violation on the Stamford Land Records.

March 20, 2009 - Notice of the Board's decision was transmitted to Leandro Rizzuto, Jr., 1 Revonah Circle, Stamford, Connecticut 06905 by Certified Mail-Return Receipt Requested (7006 0100 0002 0744 1707). Public notice of the Board's decision will be published in the ADVOCATE, a daily newspaper having a general circulation within Stamford, on or about March 25, 2009. February 26, 2009.

Compliance with the provisions of the Cease and Desist Order (as modified on February 19, 2009 and March 19, 2009) will be confirmed with the placement of further notice on these Land Records.



Dannel P. Malloy, Mayor

Environmental Protection Board

February 9, 2009

Leandro Rizzuto, Jr.
1 Revonah Circle
Stamford, CT 06905

RE: 57 Wyndover Lane – Lot 5 – Cease and Desist Order

Dear Mr. Rizzuto:

An inspection from the City right-of-way of your property at 57 Wyndover Lane on January 26, 2009 in response to a citizen complaint (reference CSC #102764) resulted in the determination that you had conducted a number of regulated activities without the required permits from the Environmental Protection Board and other City agencies. The activities were observed to be ongoing. Your attorney, Mr. Joseph J. Capalbo, II, was alerted to this determination on January 27th.

Specifically, construction and land-disturbing activities within and proximate to wetlands and watercourses involving the construction of stone walls, construction of additions to the existing house, and site grading require the obtaining of permits from the Building Bureau, Zoning Enforcement Officer, and the Environmental Protection Board.

It is noted that a more comprehensive inspection of the site could result in the finding of additional regulated activities.

Construction and other disturbances within buffer/setback areas without the required EPB permit is a violation of the Board's Inland Wetland and Watercourses Regulations.

In order to formalize these circumstances, and in light of the potential for adverse impacts on water resources, the Environmental Protection Board hereby orders you to Cease and Desist from maintaining conditions on this property affecting regulated areas.

According to Section 10 of the Environmental Protection Board's Regulations, you are entitled to a hearing on this order.

This matter will be given consideration at a Show Cause Hearing scheduled for Thursday, February 19, 2009 at a meeting beginning at 7:30 P.M. in the Planning Board Conference Room, 7th floor of the Stamford Government Center.

Your attendance, and/or the attendance of your representatives, is requested.

Sincerely,

David M. Emerson
Executive Director

CERTIFIED MAIL – 7006 0100 0002 0744 1653