**TOWN OF BROOKLYN**
**INLAND WETLANDS AND WATERCOURSES COMMISSION**
**69 SOUTH MAIN STREET**
**BROOKLYN, CT 06234**
**(860) 779-3411 EXT. 31 AND EXT. 12**
**M.Washburn@BrooklynCT.org**

# ORDER TO REMEDIATE

**Inland Wetlands and Watercourses Violations**

**CERTIFIED#** 9489 0090 0027 6215 8997 70

To: Edward L. Branciforte
36 Paradise Drive
Brooklyn, CT 06234

April 5, 2021

Location of Violation:
36 Paradise Drive
Brooklyn, CT 06234
Assessors Map 14 Lot 3-8

## Facts

The following activities have been observed to have occurred on your property without an Inland Wetlands and Watercourses Permit: Vegetation has been removed and material has been deposited in the Upland Review Area and Wetlands, beyond the approved limit of work shown on the approved Septic System Design Plan Prepared For Jeff Weaver, Lot 3 Paradise Drive, Brooklyn Connecticut. Dated October 24, 2013. Your activities, conducted without a permit from the regulatory authority are in violation of the Brooklyn Inland Wetlands and Watercourses Regulations.

## Applicable Laws and Regulations

The Brooklyn Inland Wetlands and Watercourses Regulations define, in part, a "regulated activity" as "any operation within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetlands or watercourses….". "Material" is defined to include "means any substance, solid or liquid, organic or inorganic, including but not limited to soil, sediment, aggregate, land, gravel, clay, bog, mud, debris, sand, refuse or waste". The term "pollution" is defined to include "harmful thermal effect or the contamination or rendering unclean or impure of any waters of the state by reason of any waste or other materials discharged or deposited therein by any public or private sewer or otherwise so as directly or indirectly to come in contact with any waters. This includes, but is not limited to, erosion and sedimentation resulting from any filling, land clearing or excavation activity".

The phrase "rendering unclean or impure" is further defined as "any alteration of the physical, chemical or biological properties of any waters of the state, including, but not limited to, change in odor, color, turbidity or taste".

Furthermore, a "significant impact" is defined as "any activity, including, but not limited to, the following activities which may have a major effect:

1. Any activity involving deposition or removal of material which will or may have a substantial effect on the wetland or watercourse or on wetlands or watercourses outside the area for which the activity is proposed.
2. Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system.
3. Any activity which substantially diminishes the natural capacity of an inland wetland or watercourse to: support aquatic, plant or animal life and habitats; prevent flooding; supply water; assimilate waste; facilitate drainage; provide recreation or open space; or perform other functions.
4. Any activity which is likely to cause or has the potential to cause substantial turbidity, siltation or sedimentation in a wetland or watercourse.
5. Any activity which causes substantial diminution of flow of a natural watercourse or groundwater levels of the wetland or watercourse.
6. Any activity which is likely to cause or has the potential to cause pollution of a wetland or watercourse.
7. Any activity which damages or destroys unique wetland or watercourse areas or such areas having demonstrable scientific or educational value."

"Upland Review Area" means "non-wetland or non-watercourse areas where activities are likely to impact or affect wetlands or continuous watercourses".

Section 4 of the Regulations addresses exemptions, and Section 6.1 provides that any regulated activity requires a permit.

Section 6.2 states "Any person found to be conducting or maintaining a regulated activity without the prior authorization of the Commission, or violating any other provision of these regulations, shall be subject to the enforcement proceedings and penalties prescribed in section 14 of these regulations and any other remedies as provided by law".

The deposition of material within the upland review area and wetlands without a permit constitutes both a "regulated activity" and a "significant impact" under the Regulations and fall within no allowable exception. Therefore, said activities constitute a violation of the Brooklyn Inland Wetlands and Watercourses Regulations because of, at a minimum, the following condition:

a. The "deposition or removal of material which will or may have a substantial effect on the wetland or watercourse".

<u>Order</u>

You are hereby ordered to do the following:

Remediate the disturbed areas within regulated areas or within one hundred and twenty-five (125) feet of a regulated area, specifically including, but not limited to, the removal of the material deposited by the owner of 36 Paradise Drive, Brooklyn, CT involved in the work beyond the sediment controls shown on the approved Septic System Design Plan Prepared For Jeff Weaver, Lot 3 Paradise Drive, Brooklyn Connecticut. Dated October 24, 2013 (the "approved plan").

Double-staked hay bales shall be installed at the toe of the material that has been deposited in wetlands for the linear length of the remediation activities in order to act as sediment controls to prevent material from entering further into wetlands or the stream during the remediation project. These double-staked hay bales must be installed prior to any remediation activity occurring and will remain in place until native vegetation has sufficiently stabilized the exposed soil. You are hereby ordered to install the double-staked hay bales ties on or before 4/26/2021.

The locations of the wetlands flags shown on the approved plan must be staked in the field with visible markings by a Land Surveyor licensed to work in Connecticut on or before 5/3/2021.

Restoration Plan

You shall obtain a remediation plan prepared by a licensed professional which addresses the following: Show the location of the wetlands flags shown on the approved plan. Show the 125-foot upland review area projected by the wetlands flags shown on the approved plan. Quantify and show the number of square feet of upland review area and wetlands that have been altered beyond the limit of sediment controls shown on the approved plan. Show a stockpiling area outside the upland review area where material excavated from the altered upland review are and wetlands will be temporarily stockpiled. Show properly entrenched silt fence between the stockpiling area and the upland review area. Indicate the final destination of the excavated material outside any upland review area or wetlands in the Town of Brooklyn. Include a native species remediation planting plan to replace the vegetation removed from the upland review area and wetlands beyond the sediment controls shown on the approved plan. Only native plant species shall be included in the remediation planting plan. No invasive species shall be planted. The restoration plan prepared and certified by a licensed professional must be submitted to the Commission on or before 5/31/21.

The restoration plan must be approved by the Commission prior to starting any work except for installing hay bales at the toe of the slope of the material that has been deposited in wetlands.

A cash bond in an amount sufficient to cover the work in the remediation plan (the amount to be estimated by the licensed professional retained by you and submitted in writing) approved by the Commission upon the approval of the remediation plan shall be submitted within ten (10) days following Commission approval of the remediation plan.

The removal of deposited material from the upland review area and wetlands beyond the sediment controls shown on the approved plan must be supervised by a soils scientist or other licensed professional A written, signed contract for the supervising licensed professional to

oversee the removal of deposited material from the upland review area and wetlands beyond the sediment controls shown on the approved plan must be submitted to the Commission on or before 6/30/21.

The deposited material must be removed from the upland review area and wetlands beyond the sediment controls shown on the approved plan, under the supervision of a licensed professional, on or before 8/31/21.

The remediation plantings shall be competed as per the remediation plan, and a written report prepared, certified and signed by the supervising licensed professional shall be submitted to the Commission by 10/31/21.

If all remediation work t to be done under the timeline outlined above and as established by the Commission cannot be completed on time, you must appear before the commission to explain the delay and to request an extension. Be advised that if the Commission is not satisfied with your explanation for the delay in completion, the Commission may call the bond and use the funds to complete the restoration plan.

The Commission members or its duly authorized agent may make regular inspections of the required remediation work during reasonable hours.

Failure to meet any of the deadlines in this Order may result in the issuance of citations as well as the calling of the bond.

Show Cause Hearing

In accordance with Section 15.7 of the Regulations, a Show Cause Hearing will be held on this Order on Tuesday, April 13, 2021 at 6:00 p.m. via Webex. At this hearing, you will be given an opportunity to be heard and to show cause why this Order should not remain in effect. Depending on the decision of the Agency, a copy of this Order, or a modified version of it, may be filed on the Brooklyn Land Records. To attend this hearing follow the instructions on the attached draft meeting agenda.

Dated at Brooklyn, this 5th day of April 2021.

Margaret Washburn

Margaret Washburn, Enforcement Officer of the Brooklyn
Inland Wetlands and Watercourses Commission

36 Paradise Drive Timeline 4/7/2021

10/22/2020 First NOV/C&DO issued. This required Mr. Branciforte to attend the 11/10/2020 IWWC meeting.

10/23/2020 First NOV/C&DO issued and served by CT State Marshal.

10/29/2020 Mr. Branciforte called me. He told me that he wanted to expand his equipment parking area. I told him he needed a permit to fill wetlands. He said he would apply for a permit. He said he would attend the next meeting by telephone and get back into compliance with the IWWC. He gave me his phone number: 860-800-4315. He gave me his email address: allstateconstructionct@gmail.com

The 11/10/2020 IWWC meeting was cancelled, requiring the issuance of a revised NOV/C&DO.

11/3/2020 Second NOV/C&DO issued. This required Mr. Branciforte to attend the 12/1/2020 IWWC meeting.

11/4/2020 Second NOV/C&DO served by CT State Marshal.

11/24/2020 I inspected and took photos with Resident State Trooper Corradi. The 11/3 NOV/C&DO required Mr. Branciforte to install double-staked hay bales at the toe of the slope of the fill recently deposited. He had not complied. He also did not comply with the requirement to submit an application for a permit.

12/1/2020 Mr. Branciforte failed to attend the IWWC Webex meeting as required in the 11/3 NOV/C&DO.

12/1/2020 The IWWC voted to issue Mr. Branciforte a onetime $1,000.00 fine. They instructed me to go to the CT DEEP and Army Corps of Engineers with a request for assistance with enforcement.

12/22/2020 Citation issued and served by CT State Marshal.

12/26/2020 Mr. Branciforte requested a citation hearing. It is scheduled for Thursday, 1/28/2021 at 1:00 pm.

1/5/2021 I inspected and took photos with Resident State Trooper Corradi and another Trooper. We pulled a measuring tape from CL&P utility pole #1842 (as shown on the approved IWWC plan when the house was permitted) to the closest edge of fill in the wetlands near the road. I did not enter Mr. Branciforte's property. The edge of fill was measured to be 88 feet from the utility pole. The

distance between the utility pole and the approved wetland flags was 113 feet. All the wetland flags were now missing. This represented 25 feet of fill into the wetlands, staring at the approved wetland flags. Aerial photos indicate that the fill is more extensive further away from the road. I estimated that approximately 3,000 square feet of wetlands have been filled as of 1/5/2021.

1/12/2021 Notice of citation hearing was mailed, certified, to Mr. Branciforte. Notice of citation hearing was emailed to Mr. Branciforte.

1/21/2021 Hearing packet was delivered to citation hearing officer.

1/21/2020 Hearing packet was served by CT State Marshal. Hearing packet was emailed to Mr. Branciforte.

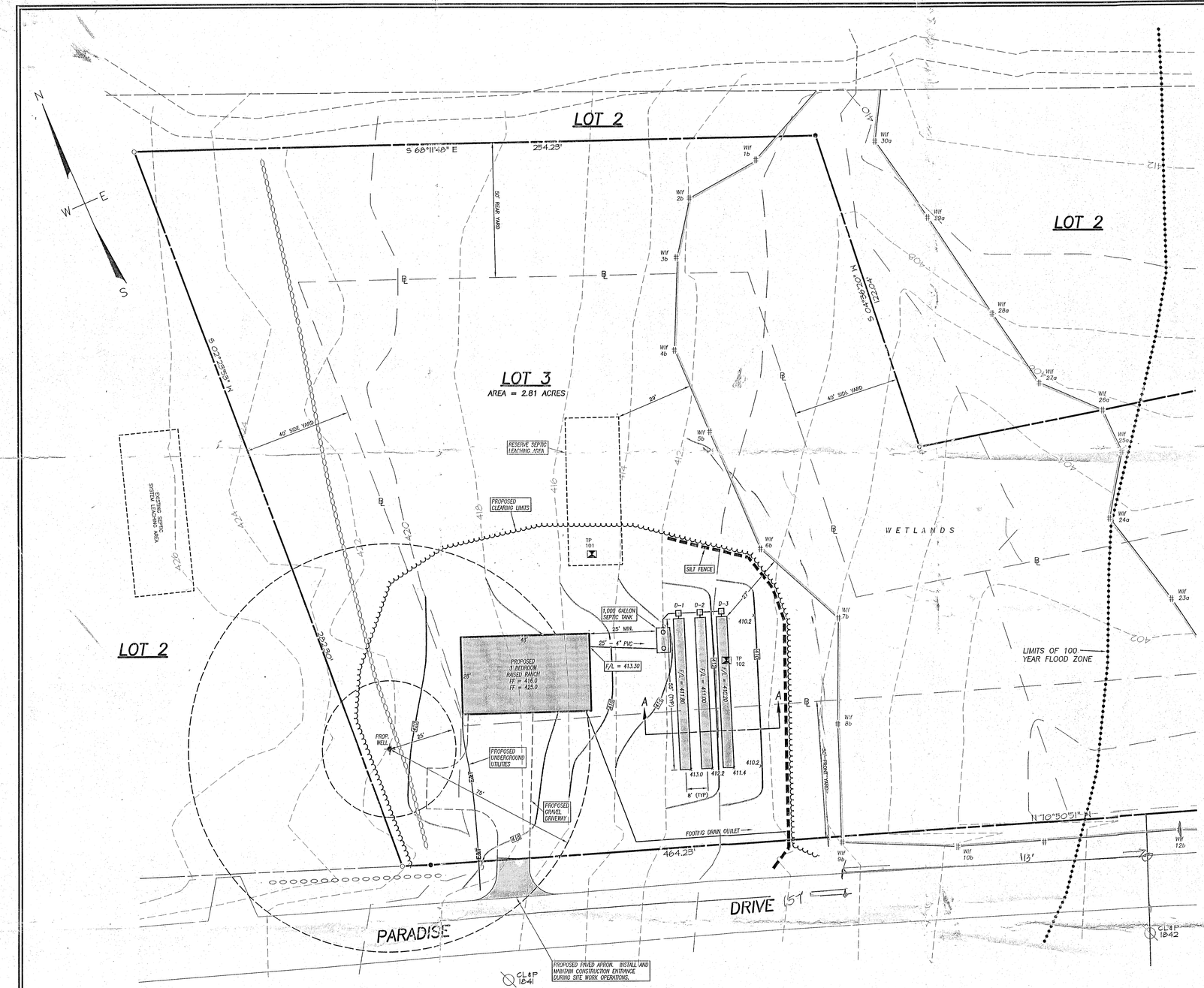
1/28/21 Hearing is held with the Citation Hearing Officer. Mr. Branciforte fails to appear. The Citation Hearing Officer upholds the citation.

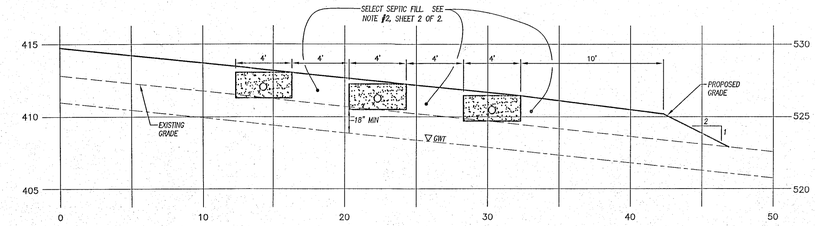
2/18/21 Citation hearing Officer sends Mr. Branciforte a letter telling him that he has assessed a fine of $1,000.00 plus $151.60 in costs to the Town.

4/5/21 Order to Remediate is mailed to Mr. Branciforte, certified.

4/6/21 Order to Remediate is e-mailed to Mr. Branciforte.

4/7/21 Order to Remediate is mailed to Mr. Branciforte, regular mail.




## CROSS SECTION "A–A"

SCALE: 1" = 5'

TEST PIT RESULTS – Northeast District Department of Health
June 27, 2013

| TEST PIT | DEPTH | PROFILE |
|---|---|---|
| 101 | 0–9" | Topsoil w/ organics |
| | 9–25" | Reddish brown fine sandy loam |
| | 25–42" | Gray compact sandy pan, mottled, wet |
| | 42–75" | Groundwater |
| | Ledge – N/A | |
| | Mottling – 25" | |
| | GWT – 40" | |
| 102 | 0–7" | Topsoil w/ organics |
| | 7–22" | Reddish brown fine silty loam, some stone |
| | 22–36" | Gray very fine sandy loam, mottled |
| | 36–76" | Groundwater |
| | Ledge – N/A | |
| | Mottling – 22" | |
| | GWT – 36" | |

PERCOLATION TEST RESULTS – Northeast District Department of Health
June 27, 2013

| HOLE # | TIME | READING |
|---|---|---|
| AA | | |
| | 7:33 | 3.25" |
| | 7:48 | 13.25" |
| | 7:58 | 15.75" |
| | 8:08 | 17.50" |
| | 8:18 | 19.25" |
| | 8:28 | 20.25" |
| | Perc Rate = 10.0 min/in | |
| BB | | |
| | 7:37 | 5.0" |
| | 7:42 | 11.75" |
| | 7:50 | 18.75" |
| | 7:55 | 19.50" |
| | 8:00 | 21.25 Dry" |
| | Perc Rate = 6.6 min/in | |

SEPTIC SYSTEM DESIGN DATA

| | | |
|---|---|---|
| Percolation Rate | = | 10 min. / in. |
| 3 bedroom house requires | = | 495 s.f. effective leaching area |
| Effective Leaching area | = | 3 s.f. / l.f. of trench |
| Length Required | = | 495/3 = 165 l.f. |
| Length Provided | = | 3 (55') = 165 l.f. |
| Min. Leaching System Spread (MLSS) | = | 300 x 1.5 x 1.2 = 54' |
| MLSS Provided | = | 55' |

LEACHING FIELD

3 Trenches @ 55 l.f. each
Maximum depth into existing grade = 4"

| SEPTIC TANK |
|---|
| 1000 GALLON<br>TWO COMPARTMENT<br>F/L IN = 412.65<br>F/L OUT = 412.40 |
| **DISTRIBUTION BOXES** |
| D-1 (OVERFLOW)<br>F/L IN = 411.97<br>F/L OUT TO TRENCH = 411.80<br>F/L OUT TO D-2 = 412.10 |
| D-2 (OVERFLOW)<br>F/L IN = 411.47<br>F/L OUT TO TRENCH = 411.00<br>F/L OUT TO D-3 = 411.30 |
| D-3 (STANDARD)<br>F/L IN = 410.37<br>F/L OUT TO TRENCH = 410.20 |

NORTHEAST DISTRICT DEPARTMENT OF HEALTH
FILE # 97000355 REV# ____ PLAN RECEIVED DATE 10-28-13
SITE PLAN ____ A/2 SURVEY ____ TP ____ RESURVEY ____ # OF COPIES: 3
REVIEWED BY: Lauren Graham DATE 11-5-13
SENT TO STATE C/O ____ DATE ____
___ APPROVED ___ APPROVED-SEE LETTER
___ REJECTED ___ REVISION REQUIRED
___ RELEASE TO ENGINEER ONLY ___ PRELIMINARY COPIES TO ENGINEER

NORTHEAST DISTRICT DEPT OF HEALTH 2013 OCT 28 A 7:

SURVEY NOTES:

1. This survey has been prepared pursuant to the Regulations of Connecticut State Agencies Section 20–300b–1 through 20–300b–20 and the "Standards for Surveys and Maps in the State of Connecticut" as adopted by the Connecticut Association of Land Surveyors, Inc. on September 26, 1996;

   This map was prepared from record research, other maps, limited field measurements and other sources. It is not to be construed as a Property/Boundary or Limited Property/Boundary Survey and is subject to such facts as said surveys may disclose.

   – This survey conforms to a Class "C" horizontal accuracy.

   – Topographic features conform to a Class "T–2" accuracy.

   – Survey Type: General Location Survey.
2. Zone: RA.
3. The intent of this survey is to show the residential development of the subject lot.
4. Elevations based on an assumed datum. Contours taken from actual field survey. Contour interval = 2'.
5. The locations of existing utilities are based on surface evidence and other sources of information. Before any construction is to commence contact "CALL BEFORE YOU DIG" at 1–800–922–4455.
6. If the proposed house will have any large tubs (over 100 gallons), the septic tank size shall be increased per the Public Health Code.

LEGEND

- TEST PIT
- PERCOLATION TEST
- IRON PIN
- EXISTING TREELINE
- PROPOSED CLEARING LIMITS
- EXISTING CONTOURS
- PROPOSED CONTOURS
- PROPOSED UNDERGROUND UTILITIES
- SILT FENCE
- BUILDING SETBACK LINE
- INLAND WETLANDS FLAG
- STONE WALL
- STONE WALL REMAINS

SURVEYOR SHALL SET A BENCH MARK IN THE AREA OF THE SEPTIC SYSTEM AT THE TIME OF CONSTRUCTION STAKE–OUT.

ENGINEER 10/24/13 DATE

TO MY KNOWLEDGE AND BELIEF THIS MAP IS SUBSTANTIALLY CORRECT AS NOTED HEREON.

PAUL M. ARCHER LLS #10013 10/23/13 DATE

NO CERTIFICATION IS EXPRESSED OR IMPLIED UNLESS THIS MAP BEARS THE EMBOSSED SEAL OF THE LAND SURVEYOR WHOSE SIGNATURE APPEARS HEREON.

GRAPHIC SCALE IN FEET (20 10 0 20)


Provost & Rovero, Inc.
Civil Engineering • Surveying • Site Planning
Structural • Mechanical • Architectural Engineering
57 East Main Street, P.O. Box 191
Plainfield, Connecticut 06374
(860) 230-0856 - FAX: (860) 230-0860
info@prorovinc.com
www.prorovinc.com


REVISIONS

| DATE | DESCRIPTION |
|---|---|
| | |

# Septic System Design Plan

Prepared For:
Jeff Weaver
#36 ~~Lot 3~~ - Paradise Drive
Brooklyn, Connecticut

DRAWING SCALE: 1" = 20'


ARCHER Surveying LLC
468 Allen Hill Road, Brooklyn, CT
(860) 779-2240


| Sheet No. | 1 OF 2 | Project No. | 133060 | Date: | October 24, 20 |
|---|---|---|---|---|---|

36 Paradise

ARCHER Surveying LLC

A:\133060\Drawings\133060 SDD.dwg

Brooklyn Inland Wetlands
Commission
P.O. Box 356
Brooklyn, Connecticut 06234

August 21, 2013

Jeffrey Weaver
P.O. Box 9
Brooklyn, CT 06234

RE: Notice of Decision – Paradise Drive, Wetlands Crossing, Driveway, Septic System, Three Bedroom House, Grading, Well and 3-Lot Re-Subdivision, RA Zone, Assessor's Map 14, Lot 3-1.

Dear Mr. Weaver:

On August 13, 2013, the Brooklyn Inland Wetlands and Watercourses Commission took the following action:

To approve wetlands permit application 071413A of Jeffrey Weaver, Paradise Drive, Map 14, Lot 3-1, RA Zone, Wetlands Crossing, Driveway, Septic System, Three Bedroom House, Grading, Well and 3-Lot Re-Subdivision, in accordance with all final plans, documents and testimony submitted with the application and including the following condition:

a. The silt fence be installed along the limit of disturbance, and
b. That no clearing, grubbing or dumping shall occur within the wetlands area.

A legal notice of this approval was published in the Bulletin, Thursday, August 15, 2013. Please note that this action of the Brooklyn Inland Wetlands and Watercourse Commission may be appealed for a fifteen-day period following the publication of the legal notice.

If you have any questions, please call the office of the Inland Wetlands and Watercourses Agent at 860-779-3411.

Sincerely,

Jana Roberson, AICP
Land Use Administrator

JR/acl
CC: File
Archer Surveying
468 Allen Hill Road
Brooklyn, CT 06234

Appendix:
Application 071413A
Site Development Plan
Prepared for Jeffrey Weaver
Prepared by Archer Surveying, LLC
Sheet 1 dated July 2013,
Sheets 1-6 Revised August 1, 2013
Northeast District Department of Health Dated August 12, 2013

Brooklyn Inland Wetlands
Commission
P.O. Box 356
Brooklyn, Connecticut 06234

Edward L. Branciforte
36 Paradise Drive
Brooklyn, CT 06234

February 18, 2021

NOTICE OF ASSESSMENT

Dear Mr. Branciforte,

This letter shall serve as notice of the entry of an assessment by default against you, for your failure to appear at a hearing scheduled at your request for January 28, 2021 at 1:00 pm, concerning a violation of the Inland Wetlands and Watercourses Regulations of the Town of Brooklyn.

Upon a finding that you received proper notice of these proceeding and that you violated the Inland Wetland and Watercourses Regulations of the Town of Brooklyn by conducting a regulated activity in a wetlands area, without a permit from the Wetlands Commission, I have assessed a fine of $1,000.00 and costs of $151.60.

A certified copy of this Notice of Assessment will be filed with the Superior Court, no less than Thirty (30) days nor more than Twelve (12) months from the date of this letter, and a judgment may be entered against you. Thereafter a levy of execution may enter against you, without further notice.

Please forward a check within thirty (30) days of the receipt of this letter in the amount of $1,151.60 **payable to the Town of Brooklyn**, to the attention of the Brooklyn Inland Wetlands Commission at 69 South Main St. Brooklyn CT 06234.

For your information, a copy of the Memorandum of Decision is enclosed.

Robert J. Kelleher
Hearing Officer, Town of Brooklyn

TOWN OF BROOKLYN
INLAND WETLANDS COMMISSION

VS

EDWARD L.BRANCIFORTE

MEMORANDUM ON HEARING

On November 3, 2020 Margaret Washburn, Brooklyn Zoning/Wetlands/Blight Enforcement officer, (Wetlands Officer) issued a "Revised Notice of Violation and Cease and Desist Order" (Order) directed to Edward L. Branceiforte of 36 Paradise Drive Brooklyn CT. (Appellant) The violation was alleged to be a "Violation of the Inland Wetlands Permit for 36 Paradise Drive".

The Order alleged that the appellant conducted or maintained a regulated activity at 36 Paradise Drive without a permit for such activity from the Inland Wetlands Commission (IWWC) and that no permit had been issued. The Order, in addition to the Cease and Desist, Included a number of actions the appellant was to take to mitigate the violation and obtain the necessary Permit from the IWWC.

On November 24, 2020 in the company of the Brooklyn Resident State Trooper the Wetlands Officer visited the property at 36 Paradise Drive and determined that no action had been taken by the Appellant to mitigate the situation and, as a matter of fact, the unpermitted regulated activity had continued.

At the IWWC meeting on December 1.2020 the Commission requested that the Wetlands Agent take all necessary enforcement actions.

On December 22, 2020 the Wetlands Agent issued a "Municipal Citation" (Citation) regarding an Inland Wetlands and Watercourses Violation assessing a fine of $1000.00.Payment of the fine was ordered within 10 days of receipt of Municipal Citation. The Citation also advised the Appellant that a hearing on the matter would be held upon Appellant's written request filed within Ten (10) days of receipt of the Citation. The Appellant made a written Request for such a hearing on December 26, 2020.

On January 12, 2021 the Wetlands Officer notified Appellant by certified mail, regular mail and email that a hearing was scheduled for January 28, 2021 at 1:00 pm. The notice also included instructions as to how to participate in the hearing, which would be a virtual through Webex.

On January 28, 2021 at 1:00 pm the scheduled hearing was conveined, virtually via Webex. The undersigned Hearing Officer, the Wetlands Officer and a prospective

witness all signed in to the hearing, The Appellant failed to sign in and participate in the hearing after a 10 minute delay to accommodate any problems he might be having signing in. No request for postponement or continuance of the hearing was made by Appellant prior to the hearing date.

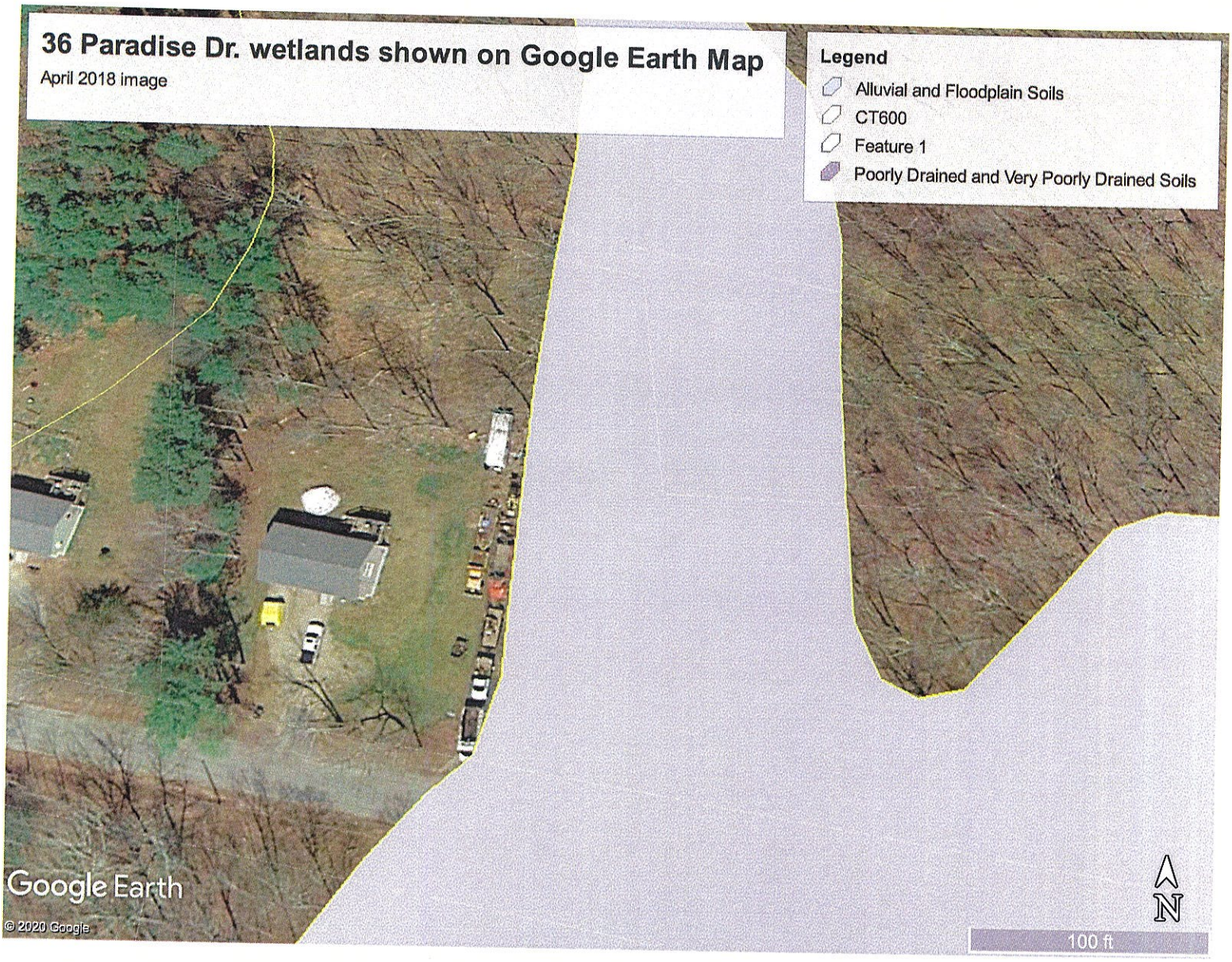
The hearing commenced at approximately 1:10 pm. The wetlands Officer submitted a packet of correspondence as well as pictures taken at #6 Paradise Drive Without objection, the material was admitted as part of the record and marked Exhibits 1-25.

Based on the evidence contained in the Exhibits, including the Notice of Violation, I find that proper notice of these proceedings was given to Appellant and of the Appellant's liability under The Inland Wetlands Regulations of the Town of Brooklyn

An assessment of $1,000.00 is entered against the Appellant together with costs in the amount of $60.80.

Robert J. Kelleher
Hearing Officer Town of Brooklyn

1-5-21 photos


36 Paradise Dr. wetlands shown on Google Earth Map
April 2018 image
Legend
Alluvial and Floodplain Soils
CT600
Feature 1
Poorly Drained and Very Poorly Drained Soils
Google Earth
© 2020 Google
N
100 ft