

Right to Know/FOIL

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NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Fish and Wildlife, Bureau of Habitat, Region 3
21 South Putt Corners Road, New Paltz, NY 12561-1620
P: (845) 256-2227 | F: (845) 255-4659
www.dec.ny.gov

CERTIFIED MAIL/RRR # 7917 2400 0000 1078 7921

Notice of Violation

May 3, 2018

3120 Lexington LLC
Keith Betensky, Esq.
26 Village Green, Suite 4
P.O. Box 22
Bedford, NY 10506-0022

PB 2018-5

Re: Excavation and fill in Regulated Freshwater Wetland and Adjacent Area
3120 Lexington Avenue
Town of Cortlandt, Westchester County

Mr. Ahearn:

On April 17, 2018, Joshua Fisher from New York State Department of Environmental Conservation and Paul Jaehrig conducted a wetland line verification at the above referenced property. Excavation, berm construction, and vegetation clearing was observed within New York State Regulated Wetland A-8 and the 100' adjacent area of this wetland. These activities would have required an Article 24 Freshwater Wetlands permit from New York State Department of Environmental Conservation.

All disturbance to the wetland and 100' adjacent area on this site must cease and any further work within the wetland or 100' adjacent area will require a freshwater wetlands permit. **See the accompanying compliance schedule that outlines when and what actions need to be taken by you.**

BE ON NOTICE THAT this Notice of Violation in no way affects the rights of the NYSDEC to seek other penalties and relief in accordance with Environmental Conservation law and the rules and regulations promulgated pursuant thereto.

Sincerely,

Joshua Fisher
Biologist, Region 3 Bureau of Habitat

- Copies ¹ Planning Board
- Town Board
- Zoning Board
- Legal Dept.
- DOTS Director
- C.A.C.
- A.R.C.
- Applicant
- _____
- _____
- Sent 5/9/18

RECEIVED
MAY 07 2018

DEPT. OF TECHNICAL SERVICES
PLANNING DIVISION



Department of
Environmental
Conservation

Compliance Schedule

Jack Ahearn

3120 Lexington Avenue, Town of Cortlandt, NY

Article 24 Freshwater Wetland A-8 Violation

Excavation, fill, and clearing occurred in a regulated wetland and 100' adjacent area without a permit.

The above referenced Respondent shall:

Immediately	Respondent shall: <ol style="list-style-type: none">1. Cease all disturbance to the wetland and 100' adjacent area except for the actions outlined below.
Within 15 days from 5/5/2018	Respondent shall: <ol style="list-style-type: none">1. Along the edge of the delineated wetland line, install and maintain sediment and erosion controls as dictated by the New York State Standards and Specifications for Erosion and Sediment Control (Blue Book.)2. Remove the berm along northern and eastern side of the building. All removed material must be taken at least 100' upland from the wetland boundary. Removing material from the site may require a permit from NYSDEC Materials Management.3. Seed and mulch/straw disturbed area. Mulch/straw must be maintained until vegetation becomes established.4. Apply for a NYSDEC Freshwater Wetlands Permit for any further proposed disturbance to the wetland or 100' adjacent area.

The Law Offices of Keith R. Betensky

The Empire Building
26 Village Green, Suite 4
P.O. Box 22
Bedford, New York 10506-0022

Keith R. Betensky
Admitted in N.Y. & N.J.



May 25, 2018

New York State Department of Environmental Conservation
21 South Putt Corners Rd.
New Paltz, NY 12561-1620
Attention: Mr. Joshua Fisher

Re: 3120 LEXINGTON AVENUE, CORTLANDT, NEW YORK

Dear Mr. Fisher:

As you know, I am the attorney for 3120 Lexington, LLC ("Owner") in connection with the property known as 3120 Lexington Avenue, Cortlandt, New York ("Property"). I am pleased to report that as of May 20, 2018, the Owner has completed the remedial measures required by the New York State Department of Environmental Conservation ("DEC") in its Notice of Violation ("NOV"), dated May 3, 2018. Photographs evidencing same are attached hereto for your files, together with a copy of the NOV.

As we discussed, the Owner has also filed an application with the Town of Cortlandt for an amendment to the approved site plan for the existing building and related improvements, including a detailed Wetland Soils Survey, prepared by Paul J. Jaehnig, dated January 15, 2018, a boundary survey showing the wetland flagging, site plan, landscaping plan, and architectural drawings. The Owner also recently had the survey updated to confirm the wetland flagging and add a validation block for DEC. The Owner is diligently working on compiling the materials necessary to submit a complete application with the DEC for a Freshwater Wetland Permit and hopes to accomplish same shortly.

It is important to note that the Owner recently purchased the property and wishes to improve current conditions by, among other things, completing the following items: (i) remove debris from the wetland left by prior owners; (ii) stabilize the soil behind the existing building with a retaining wall to stop the erosion into the wetland; (iii) install a stormwater management system including a mechanical separator to capture and treat the stormwater from the paved parking area where stormwater is currently untreated; and (v) plant trees, shrubs and grass to stabilize the soil, beautify the property and mitigate any potential impacts to the wetland. It is also important to note that the Owner is not proposing to change the use of the property, the Owner is not proposing to

writer's direct dial: 914-338-8050
e-mail: keith@betenskylaw.com

Copies 1 Planning Board

..... Town Board

..... Zoning Board

..... Legal Dept.

..... DOTS Director

..... C.A.C.

..... A.R.C.

..... Applicant

..... _____

..... _____

Sent 5/30/18

increase the size of the existing building which was approved and constructed circa 1977, and the Owner is proposing a net reduction in impervious surfaces.

Please note that this letter, and all prior correspondence regarding this property, have been sent in good faith and nothing contained herein shall be deemed an admission of liability or waiver of rights.

Please call me if you have any questions.

Thank you.

Very truly yours,



Keith R. Betensky

cc: Town of Cortlandt
Mr. Jack Ahearn
Michael Stein, P.E., Hudson Engineering
Heike Schneider, Architect

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Sincerely,



Joshua Fisher
Biologist, Region 3 Bureau of Habitat



Compliance Schedule

Jack Ahearn

3120 Lexington Avenue, Town of Cortlandt, NY

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