

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Fish and Wildlife, Bureau of Ecosystem Health, Region 3
21 South Putt Corners Road, New Paltz, NY 12561-1620
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www.dec.ny.gov



**Department of
Environmental
Conservation**

Notice of Violation

December 30, 2021

Tomasz Fidziukiewicz
84 Round Hill Road
Armonk, NY 10504

Re: Violations of Environmental Conservation Law Article 24 at 84 Round Hill Road, Town of North Castle, Westchester County

Dear Tomasz Fidziukiewicz,

On September 27, 2021, James Bates contacted the DEC to notify staff that work had been conducted within the 100-foot adjacent area of New York State-regulated freshwater wetland K-30 and to provide a mitigation plan. On October 21, 2021, Department staff conducted a site inspection at your property. During the visit, Department staff observed ground disturbance within the 100-foot adjacent area of New York State-regulated freshwater wetland K-30. Under the Freshwater Wetlands Law, Environmental Conservation Law Article 24-0701 Sections 1 and 2, and the implementing regulations 6NYCRR Part 663.4(d) Item 22 clear-cutting timber, Item 23 clear-cutting vegetation, and Item 25 grading within regulated areas requires a permit. A Freshwater Wetlands permit was not applied for or obtained and, therefore these activities are a violation of Environmental Conservation Law and the associated regulations.

The mitigation plans titled "Landscape & Wetland Buffer Mitigation Plan," sheet 1, last revised 11/04/21 and "Mitigation Notes," sheet 2, last revised 07/06/21 are accepted as mitigation for the above-referenced activities. All work must be conducted in accordance with the following conditions:

1. The owner or an authorized representative must contact Sarah Pawliczak by email at sarah.pawliczak@dec.ny.gov at least 48 hours prior to the commencement of the mitigation and upon completion of the mitigation.
2. You are responsible for replacement of lost wetland adjacent area plantings if the survival rate of the initial plantings is less than 85% within two years after planting. During the subsequent years of monitoring the success of these plantings as required by this permit, if the survival rate of these plantings remains less than 85% or invasive species are noted at levels greater than 10-15%, the permittee must evaluate the reasons for these results and develop and implement a remediation plan approved by the Department to ensure a successful plantings mitigation.

Re: Fidziukiewicz Property
84 Round Hill Road, Armonk, NY
Article 24 Freshwater Wetland Notice of Violation

3. The success of the wetland adjacent area plantings mitigation area(s) shall be monitored for a minimum of five (5) years after completion. Annual reports discussing the status of vegetation established, and problems that have occurred and containing representative photographs, shall be provided to Sarah Pawliczak, by email at sarah.pawliczak@dec.ny.gov, by December 31 of each year for the duration of the monitoring period, with the first report due no later than December 31 of the calendar year in which this work commenced.
4. To prevent the unintentional introduction or spread of invasive species, you must ensure that all construction equipment be cleaned of mud, seeds, vegetation and other debris before entering any approved construction areas within the state regulated freshwater wetland or its 100-foot adjacent area.
5. You must submit an as-built survey of the mitigation area to Sarah Pawliczak by email at sarah.pawliczak@dec.ny.gov.
6. The use of aquatic pesticides is expressly prohibited except in accordance with an Article 15 Aquatic Pesticides Permit. Please see the DEC website for more information: <https://www.dec.ny.gov/chemical/8530.html>.

Be aware that any proposed disturbances in the future may be subject to a Freshwater Wetland (Article 24) permit. Application forms can be found here: <https://www.dec.ny.gov/permits/6277.html>. For a list of regulated activities (Part 663.4), please use this link: <https://www.dec.ny.gov/regulations/regulations.html>.

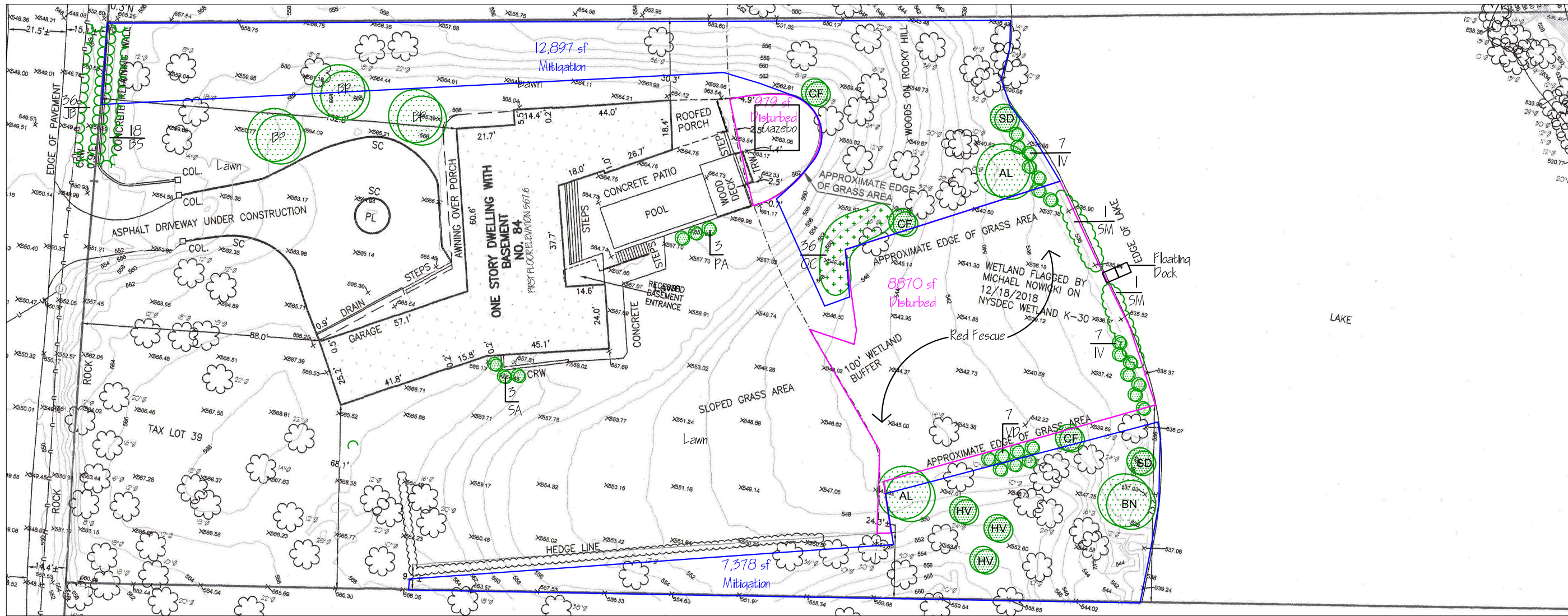
BE ON NOTICE THAT without prompt attention to this matter the violation will be referred to the Office of General Council and that this Notice of Violation in no way affects the rights of the NYSDEC to seek other penalties and relief in accordance with Environmental Conservation Law and the rules and regulations promulgated pursuant thereto.

Sincerely,



Sarah Pawliczak
Biologist, Region 3 Bureau of Ecosystem Health

cc: James Bates, Ecological Analysis
Town of North Castle Town Clerk



Landscape & Mitigation Plant List

84 Round Hill Road

Abb.	Scientific Name	Common Name	Size	Quan.
Trees				
AL	Amalanchier laevis	Shadblow	7-8' ht.	2
BN	Betula nigra	River Birch (Clump)	9-10' ht.	1
CF	Cornus florida	Flowering Dogwood	7-8' ht.	3
SD	Salix discolor	Pussy Willow	5-6' ht.	2
Shrubs				
BS	Buxus sempervirens	American Boxwood	1.5-2' ht.	18
IV	Ilex verticillata	Winterberry	3-3.5' ht.	14
HV	Hamamelis virginiana	Witch Hazel	5-6' ht.	3
JA	Juniperus Bar Harbor	Bar Harbor Juniper	2-2.5" sp.	36
SA	Spirea A. Waterer	A. Waterer Spirea	2.5' 3' ht.	3
VD	Viburnum dentatum	Arrowwood	4-5' ht.	7
Perennials				
OC	Osmunda cinnamomea	Cinnamon Fern	1 Gal. Pots	36
PA	Pennisetum alopecuroides	Fountain Grass	1 Gal. Pots	3

Shoreline Plants

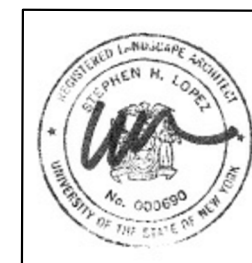
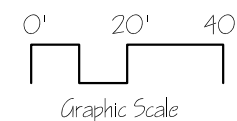
SM	Caltha palustris	Marsh Marigold	2" plug, 3' x 10
	Hibiscus moscheutos	Rose Mallow	2" plug, 3' x 10
	Peltandra virginica	Arrow Arum	2" plug, 3' x 20

Mitigation Area Notes

1. Total disturbed area 9849 sf. Total mitigation area at 2x = 19,698 sf.
2. Mitigation area provided 20,275 sf.
3. Mitigation Notes on Sheet 2.

Plant Notes:

1. All plants to be full, free of disease and with form characteristic of the species.
2. All plants to be warranted for one year or two growing seasons, whichever is longer.
3. Amend 6 inches around all plant pits with 1:3 peat moss by volume worked into the soil.
4. Mulch with shredded cedar bark 1.5" deep over planting pit.
5. Thoroughly soak all plants at the time of planting.



General Notes:

1. This drawing is for plant material specification only. All base data by others. No representation or warranty is express or implied as to accuracy of same.
2. Contractor is responsible for safety of site during installation of all improvements. Thereafter the owner is responsible for maintaining a safe site.
3. All environmental constraints subject to local, state and/or federal jurisdiction must be reviewed by appropriate agencies.

Landscape & Wetland Buffer Mitigation Plan

Stephen Lopez, AICP, RLA
254 Bedford Road, Pleasantville, NY 10570

Tomasz Fidziukiewicz
84 Round Hill Road
Armonk, NY

Sheet 1

Date: April 5, 2019, Rev. 6-12-19, 8-9-19, 7-6-21, 11-4-21

PROJECT LONG-TERM WETLAND MONITORING AND MAINTENANCE PLAN:

1. Wetland Monitoring & Maintenance Plan

- The purpose of the Wetland Monitoring & Maintenance Plan is to ensure that development in the wetland buffer does not compromise the functional integrity of the wetland buffer, ponds or wetlands and resulting mitigation meets its stated goals as described in the Final Resolution adopted by the Town of North Castle "Town" Planning Board for (the "Permittee").

2. Protocol for Commencement of Wetland Monitoring & Maintenance Plan

- Permittee shall implement the mitigation plan (wetland plantings) approved by the Town Planning Board.
- Following the installation of all wetland mitigation in accordance with the Final Resolution and plans adopted by the Planning Board, the Permittee shall submit two (2) copies of the following:
 - Certification from a Qualified Environmental Consultant ("Consultant") approved by the Planning Board or its designee verifying the proper installation of all plants and materials in accordance with the approved Planning Board Resolution. The Consultant shall note any deficiencies in the installation of the plant materials or deviations from the approved resolution so that these can be corrected before final approval.
 - As-Built plan prepared by a Licensed Engineer or Licensed Surveyor detailing the (1) location of plantings and (2) number of species of individual plants.
 - The monitoring period shall begin with the review of all required submitted information/materials and final written approval by the Town's Wetland Consultant and continue for a period of 5 years.

3. Assurances

- All plantings and seed mixture applications in conjunction with the mitigation work shall be accomplished in accordance with the approved drawings and completed within the first growing season after site clean-up is complete and topsoil is re-spread on the disturbed areas to be re-vegetated.
- The Permittee shall ensure that all plants in conjunction with the wetland mitigation plan shall have a minimum 85% survival rate of installed plants, which must be met or exceeded at the end of the second growing season following the initial planting/seeding. If the 85% survival rate is not met at the end of the second growing season, the Permittee shall take all necessary measures to ensure the level of survival by the end of the next growing season, including replanting and re-grading with topsoil, if necessary. Continue the program for the full term of the 5 years after planting.

1. Monitoring Reports

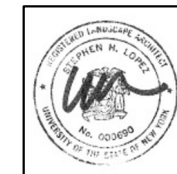
- The purpose of the mitigation monitoring and maintenance reports shall be to: (1) evaluate the progress of the establishment of the mitigation areas, (2) assess compliance with plant survival and plant condition requirements, and (3) identify those aspects of the mitigation areas that may require remediation by the Permittee in order to achieve the mitigation objectives.
- Permittee shall submit the mitigation monitoring and maintenance reports prepared by a Licensed Landscape Architect (or an environmental professional approved by the Town of North Castle) annually no later than November 1st to the Town's Wetland Consultant for review.
- Information for said reports shall be collected a minimum of 7 times: once prior to construction; once immediately post-construction; and annually for 5 years post-construction between the months of June 1st and September 1st.
- Minimum requirements for monitoring reports:
 - Identification of the number of surviving approved plants and area coverage at the time of the observation. The report should detail the condition, vigor, size (dbh) of all planted material and compliance with the approved Planning Board Resolution.
 - Color photographs from established stations approved by the Town's Wetland Consultant showing representative conditions in the mitigation areas taken annually during the designated period defined above.
 - An estimate of the vegetative cover in the mitigation areas, noting, in particular, areas which are bare of vegetation and/or locations where erosion and sedimentation are occurring; or where invasive plant species have become established. Aerial coverage of invasive plant species must be less than 15% of the total wetland mitigation area on the site.
 - A qualitative analysis of the extent to which the mitigation has been successful. Said reports shall note areas of deficiencies and/or non-compliance and provide recommendations/measures to be taken to ensure continued success of the mitigation efforts and soil stabilization.

2. Completion of Monitoring Period

- Final Report submitted by the Permittee and certified by the Permittee's Consultant.
- The Town's Wetland Consultant will review the submitted material and perform an inspection of the site for conformance with the approved Planning Board Resolution and As-Built Plans. Upon review and inspection, the Town's Wetland Consultant shall submit written approval to the Planning Board.

- A Monitoring Data Form (in Report) shall be filled out that includes the above information and the following information, if applicable:
 - The vegetative cover shall be comprised of native species (not invasive species), whether planted or resulting from natural colonization. If vegetative cover is less than 85%, replanting shall occur with native species which have survived and show good vigor within the wetland buffer mitigation planting areas.
 - Elimination of invasive plant species. Permittee shall demonstrate 100% removal of target species at initial treatment. Ongoing removal shall be demonstrated at each inspection period. Target species shall be tested, as necessary, to prevent re-establishment, including, but not limited to, Japanese Barberry (*Barberis thunbergii*), Common Reed (*Phragmites australis*), Bittersweet (*Celastrus orbiculatus*), Multiflora Rose (*Rosa multiflora*), Porcelain Berry (*Ampelopsis brevipedunculata*), Autumn Olive (*Elaeagnus umbellata*), Winged Euonymus (*Euonymus alatus*) and Garlic Mustard (*Alliaria petiolata*). It is incumbent on the Permittee to remove such invasive species during the appropriate season in which removal is optimal. Hand removal of any deformed, diseased or otherwise unhealthy plantings and replacement "in kind" as necessary to meet the 85% survival threshold.

1. Pesticide and fertilizer use is restricted within the 100' wetland buffer from the edge of the wetland line, except for those products which are permitted by the NYSDEC.



Mitigation Notes

Stephen Lopez, AICP, RLA 254 Bedford Road, Pleasantville, NY 10570	
Tomasz Fidziukiewicz 84 Round Hill Road Armonk, NY	Sheet 2
Date: July 6, 2021 Scale: NA	



TOWN OF NORTH CASTLE

WESTCHESTER COUNTY
17 Bedford Road
Armonk, New York 10504-1898

RESIDENTIAL PROJECT
REVIEW COMMITTEE

Adam R. Kaufman AICP, Chair

Telephone: (914) 273-3000 x 43

Fax: (914) 273-3554

www.nortcastleny.com

RESIDENTIAL PROJECT REVIEW COMMITTEE (RPRC) APPLICATION

Section I- PROJECT

ADDRESS: _84 Round Hill Road, Armonk

Section III- DESCRIPTION OF WORK:

Remediation for wetland buffer disturbance. Plantings approved by NYS DEC.

Approved Plans: Landscape & Buffer Mitigation Plan
Mitigation Notes

Section III- CONTACT INFORMATION:

APPLICANT: Tomasz Fidziukiewicz, TT Mechanical Corp.

ADDRESS: 58-10A 59th Street, Maspeth, NY 11378

PHONE: 718-578-3593 MOBILE: Same EMAIL: tomasz@ttmechanical.us

PROPERTY OWNER: Same as applicant

ADDRESS: Same as applicant

PHONE: Same as applicant MOBILE: Same as applicant EMAIL: Same as applicant

PROFESSIONAL: Stephen Lopez, AICP, RLA

ADDRESS: 254 Bedford Road, Pleasantville, NY 10570

PHONE: 914-769-7606 MOBILE: 914-588-4751

EMAIL: Stephenlopez@optonline.net

Section IV- PROPERTY INFORMATION:

Zone: R-2A Tax ID (lot designation) 102.03-1-39