

June 5, 2024

■ FOR SUBSCRIBERS

No permits, possible wetlands and a questionable deed on Rehoboth Beach's Silver Lake

Shannon Marvel McNaught, Delaware News Journal | 2 hours ago

A legally questionable land deed and government agencies' failure to act quickly on complaints may have led to the illegal filling of wetlands on Silver Lake in Rehoboth Beach.

Silver Lake and the adjacent Lake Comegys are glacial remnants, the Delaware Public Archives website says, as well as the only natural freshwater lakes in Delaware. There aren't many wetlands left along the lake, but herons, egrets and other shorebirds frequent the areas where there is still shallow water, mud and vegetation. The lakes were named a State Bird Refuge in 1933.

On the eastern side of Silver Lake, there's just one row of homes between it and the sea, making it the closest freshwater lake in the nation in proximity to the Atlantic Ocean, according to the archives. Million-dollar homes line the western side of the lake, too, buffered by Silver Lake Drive and a narrow strip of land.

Among the picturesque surroundings, a huge, flattened pile of orange dirt at the lake's southwestern corner looks out of place. Even before the dirt came, when the wedge-shaped parcel was clear-cut in the summer of 2023, people noticed.

1



This land, on the southwest corner of Silver Lake in Rehoboth Beach, was clearcut and backfilled. (Photo: Shannon Marvel McNaught, Delaware News Journal)

2

Whose land is it?

A 2023 Sussex Conservation District residential building permit application says the land belongs to Anthony F. Johnson Crivella and Rusty Catts, but how they came to possess a deed for the property is unclear. Other records state it belongs to Crivella and a Catts trustee.

Crivella could not be reached for comment; Catts declined to comment when reached by phone.

Which government agency has jurisdiction over the property is a matter of some debate.

A U.S. Army Corps of Engineers representative told Hardy in an email that his agency is investigating "an alleged regulated discharge of dredged and/or fill material into waters/wetlands of the United States."

"It's still an open matter for us," Corps spokesman Stephen Rochette said in an email Wednesday. "We are awaiting the County to work through their process at this time."

More locally, Delaware Department of Natural Resources and Environmental Control representatives have continually claimed the land is not in their jurisdiction, leaving the matter to the appropriate municipality or the county. The surrounding properties have Rehoboth or Dewey addresses but are outside of both towns' municipal limits, making it a county issue.

There was much confusion at first due to an apparent error on the deed. On Aug. 15, 2023, Sussex County Planning and Zoning Clerk Amy Hollis said in an email to Dewey Beach Town Manager Bill Zolper she had just gotten "another call regarding the development of the parcel."

"As previously stated my research all points to this parcel being part of the Town of Dewey Beach and absent documentation stating otherwise we will be proceeding as such," Hollis wrote.

Zolper notified the town attorney, Fred Townsend, who responded to Hollis two days later. The parcel is not within or even adjacent to Dewey town limits, he said, based on a review of the town charter and other materials.

Before that, as far back as anyone can remember, the property contained trees and what were thought to be wetlands. No one knows for sure, since the dirt was dumped on the property before any analyses could be done.

3 "Ours is an environmental concern," said Rick Hardy, treasurer of Save Our Lakes 3 and a nearby resident. "There was no permit. No one knew what was going on."



Complaints started coming in to government agencies, but it wasn't until February 2024, after the landscape was finished off and some of the dirt seeped into the lake, that one of them did something about it.

Violation issued

On Jan. 31, a Sussex County code enforcement officer conducted a field check at the property, finding “at minimum 30 six wheeler loads of fill added to lot,” inspection documents say.

The county finally issued a notice of violation to Crivella, for increasing the water surface level elevation in a special flood hazard area, Feb. 6, County Planning and Zoning Director Jamie Whitehouse wrote in a March 22 letter.

Because Crivella had not applied for applicable permits, submitted environmental analyses or even contacted the county at that point, Whitehouse wrote, all the dirt dumped on the property must be removed, the parcel re-graded and land restored to its original state. He gave Crivella 30 days to respond, at which point, he said, “formal action” may be necessary.

The dirt remained a of Thursday. Sussex County Councilman Mark Schaeffer said Crivella has “run out the clock” and provided more context on how he came into possession of the property.

“He has a history, it appears, of thi type of activity ... where he just files a deed on a property that has a not-very-clear chain of title and lays claim to it and, I guess, hopes nobody notices,” Schaeffer said.

Townsend concurred in his email to the county, in which he said Crivella seemed to have “made a practice of deeding property to himself and then conveying it to related parties over and over again. He even prepares the deed himself and offers no ‘being clause’ to explain how he obtains title.”

5



Dirt was used to raise the elevation of a property at the southwestern corner of Silver Lake in Rehoboth Beach, shown here May 30, 2024. (Photo: Shannon Marvel McNaught, Delaware News Journal)

Schaeffer believes DNREC and DelDOT should “take the lead on possible litigation to have Crivella removed from the property and return the site to its original state,” but has asked the Department of Justice to get involved, he said.

He awaits their response. Department of Justice representatives did not immediately respond when asked for more information by Delaware Online/The News Journal.

“I think it’s the intent of the county to return the site to its original condition,” Schaeffer said. “It’s a travesty.”

Shannon Marvel McNaught reports on southern Delaware and beyond. Reach her at smcnaught@gannett.com or on Twitter @MarvelMcNaught.

6