

## CONSERVATION ADVISORY COUNCIL MINUTES

May 9, 2006

### **PRESENT:**

John Sussmeier, Acting Chair (JS)  
Rodney Dow (RD)  
Andrew Galler (AG)  
Lew Kingsley (LK)  
Eric Lind (EL)  
David Klotzle, Wetlands Inspector (DK)

### **GUESTS:**

Laurence Belluscio – Healy/Graham application (LB)  
Russell Cusick – No application  
Bruce Elton – Tomizawa application (BE)  
Steve Ferreira – Gainer/Segarra applicaion (SF)  
Councilman Richard Shea (RS)  
Joel Trece – Armstrong/Logan application (JT)

The regular meeting of the Town of Philipstown Conservation advisory Council was held on the above date at the Philipstown Town Hall, 238 Main Street, Cold Spring, New York. The meeting was called to order by Acting Chairperson John Sussmeier at 7:30 PM

*Applicant: Strange*

*Representative: Robert Strange*

*Tax Lot: 83.5.-1-24.2*

*Permitting Authority: Wetlands Inspector*

AG recused himself but asked that at the appropriate time he be recognized as a member of the public. DK said that after receiving the information requested from Strange he had no problem granting a permit. JS concurred with DK and asked for comments. AG said that he had no problem with a permit's being granted but that because the pond is in the middle of a buffer and the soil is hydrous, he thought a licensed engineer should monitor the project. DK offered to make his supervision of the project a condition for granting the permit, along with requiring an escrow deposit. DK noted that this modality had been followed in several other projects, such as Indian Brook. JS asked whether CAC had done this in the past. DK said he was not sure and that he would check with Ed Doyle whether CAC can make these stipulations. DK said that he was pretty sure that CAC could, since it's a standard procedure. AG said he thought that the complexity of the project – i.e., the hydrostatic issues -- warranted monitoring by a licensed engineer. JS said that because the plan initially submitted had not been prepared by a licensed engineer, he had initially

shared AG's concern, but he now felt the project's magnitude warranted allowing the applicant some leeway re the monitoring requirement, particularly in view of the fact that the applicant does this work for a living and would be unlikely to do shoddy work on his own property.

A motion to grant the permit was passed unanimously, subject to DK's verifying with Ed Doyle the legal acceptability of its stipulating DK's monitoring and an escrow account.

MM requested that his recusal from the Strange application be noted.

*Applicant: Mastrantone/Giordano*  
*Representative:*  
*Tax Lot: 27.20-1-5*  
*Permitting Authority: Wetlands Inspector*

Mr. Giordano was absent; therefore, this matter was rescheduled to next month.

*Applicant: Jordan*  
*Representative:*  
*Tax Lot: 17.-2-87*  
*Permitting Authority: Wetlands Inspector*

Mr. Jordan was absent; therefore, this matter was rescheduled to next month.

*Applicant: Gainer/Segarra*  
*Representative: Steve Ferreira (SF)*  
*Tax Lot: 90.8-2-9*  
*Permitting Authority: Wetlands Inspector*

SF noted that he had tried to address all outstanding issues in the newly submitted set of plans; e.g., the use of erosion-control logs.

JS said that only remaining issue as far as he was concerned is the septic-system size. In this regard, he noted that the plan supports a primary but not a secondary septic area for two bedrooms.

In response, SF said that BOH does allow for reduction of expansion-area size. JS replied that since the expansion area mandated for a 2 BR house had been curtailed, he thought this fact ought be noted and BOH so informed.

SF noted that BOH wouldn't let him proceed without a wetlands permit.

AG suggested making the issuance of a permit contingent upon house and septic system size.

DK noted that Ed Doyle said that this is permissible.

DK added that other issues re house footprint, plantings, filtering materials should also be stipulated in permit.

DK said construction ought to be continually monitored, and that applicant must understand that project will be stopped if permit conditions are not being observed.

SF said that an engineer as well as DK could be employed to monitor the project.

DK maybe we should ask Bibbo associates to monitor the project.

RD stated that he fundamentally objects to the project because it adds to the runoff into the lake, and thereby adds to the ongoing environmental destruction.

JS asked what benefit would be provided by Bibbo monitoring.

DK said they would pick up on any engineering problems.

SF stated his willingness that the above-mentioned stipulations be made part of the permit.

AG said he had objections similar to RD's: Although SF had done admirable job trying to address CAC concerns, he was unhappy with the project as a whole; e.g., how is the well truck going to get in?

SF said that the well truck will come in from from the driveway.

JS asked about the mechanisms for arranging an escrow account and Bibbo Associates monitoring. He said he was reluctant to hold this case up for another month.

DK said it will take him several days to find out. Once the permit is granted he and/or an engineer can review the project as often as needed, which also could be stipulated in the permit -- e.g. during and after installation of septic -- based on a construction schedule provided by SF. DK also said he could review environmental issues.; e.g. silt fences, core logs, while an engineer could review the other issues.

SF noted that he already had produced a schedule.

JS asked what would happen if the monitoring engineer wanted more money than applicant was willing to pay.

DK said he didn't know the answer to that question.

SF said he would like to give the client a choice of town-approved supervisory engineers, rather than limit them to Bibbo Associates.

JS asked for motion to accept plan as is, with all the required constraints noted in the permit.

DK said he could write permit with all the constraints and submit it to the CAC, but that this would make it impossible to grant the permit at the current meeting.

JS said this would mean postponing CAC's vote pending DK's consulting Town legal authorities and, with their permission, talking to both Bibbo Associates and Putnam Engineering. He said he was comfortable with moving to make permit contingent upon DK's satisfaction with the arrangement, since DK is the Permitting Authority. JS then asked for a motion.

No CAC member wanted to approve the motion.

Therefore, the matter was continued to next month's meeting.

*Applicant: Hird*

*Representative:*

*Tax Lot: 16.--2*

*Permitting Authority: Wetlands Inspector*

JS noted that although this matter had been included on the agenda, a permit already been granted. DK confirmed this.

*Applicant: Pearson*

*Representative:*

*Tax Lot: 38.-3-49-2*

*Permitting Authority: Wetlands Inspector*

JS noted that information had been supplied at a prior meeting but he asked for a general overview.

Pearson provided a written history, which he read and which is reproduced verbatim below:

Our wetland application is the last step in renewing our building and Driveway permits initially obtained in 1991, which have since expired. We have received all necessary approvals from the BOH for the house, well and septic, based on the subdivision that was filed in 1991.

The low area at the northeast corner of our property, adjacent to Lane Gate Road, has become a basin for runoff. A drainage ditch cut by the Town Highway Department spills directly into the area. This, together with leakage from both ponds caused by heavy rainfall in recent years has created this wet area.

My wife and I purchased this property 28 years ago, before the Town located the Town Dump directly across the street from us on residentially zoned land and directly above a significant wetland. Since then, we have endured quality of life issues as a direct result. Our property value has also obviously been affected. In the early 1980s we purchased an acre adjacent to the northwest corner of our property so that we would later be able later to subdivide and build a home further away from the Town Dump. We are only seeking to utilize our property as was originally permitted by the Town of Philipstown and the Putnam County BOH.

We believe we have been good stewards of the waters that flow through our land. We have never used chemicals in our pond or on our lawn. We welcome assistance from the Wetlands Committed in finding the best way to go forward with this project.

JS noted this is for a driveway crossing a wetland.

DK and LK said they had visited the wetland and that is it due to pond seepage and from the road. They noted that it is a shallow wetland and a new one (20 years), containing nothing rare or unusual.

JS asked if a MacGee/Holland assessment would be warranted.

DK said he doubted it.

Pearson noted that the pond is man-made and it leaks.

DK said requirements were similar as for Jordan: drainage through driveway, reptile/amphibian passageway, cement culvert w/no bottom, gavian w/geotech, some kind

of mitigation (possibly in form of more valuable wetland plant types, rather than trying to scoop out a wetland area)

AG asked about whether septic location on map is current.

Pearson replied affirmatively.

JS asked that applicant be provided a checklist of items required in order that a permit be granted.

DK said he would provide a checklist and review the items contained therein with the applicant, but he recommended that the CAC make a site visit.

JS agreed.

DK asked that the wetland be flagged.

AG said he wanted the plan to have the septic buffer marked in relation to the wetland.

JS asked if a well can be placed that close to the wetland under BOH regulations.

Pearson said that BOH had had no objection; i.e., there is no setback requirement from pond to well.

JS said that DK would provide applicant a checklist and that the matter would be considered next month.

*Applicant: Scherer*

*Representative:*

*Tax Lot: ??*

*Permitting Authority: Wetlands Inspector*

Mr. Scherer was absent; therefore, this matter was rescheduled to next month.

*Applicant: Brown/Wallis*

*Representative:*

*Tax Lot: 17.-2.-89*

*Permitting Authority: Wetlands Inspector*

Brown/Wallis were absent; therefore, this matter was rescheduled to next month.

*Applicant: Mackin*

*Representative:*  
*Tax Lot: 17.-3.-8*  
*Permitting Authority: ??*

DK said he had spoken with Mr. Mackin, who told him that the engineering plans were not ready. This matter was rescheduled to next month.

*Applicant: Open Space Intitute (Grist Mill)*  
*Representative:*  
*Tax Lot: 71.-1-4.1*  
*Permitting Authority: Zoning Board of Appeals*

DK noted that Wetlands Permit had been granted and matter was in hands of ZBA.

*Applicant: Healy/Graham*  
*Representative: Lawrence Bulluscio (LB)*  
*Tax Lot: 27.-1-21*  
*Permitting Authority: Wetlands Inspector*

Applicant wants to renew a permit that whose renewal had expired in 2004. He said that Ms Graham was out of the country and been unaware of permit's expiration. Mr. Healy was present as was LB, who said the site's condition was unchanged. RD asked about the materials used in the culvert and suggested using of concrete instead of metal. JS noted that the well is located in wetland. LB said that it had to be there. EL suggested that well drilling be as contained as possible. DK mentioned that he had been unable to find the site. EL asked whether the plan included a plant-species list. LB said it did. JS said that he was in favor of approving the plan as long as concrete was substituted for metal in the culvert's construction, but that DK needed to make a site visit as well. DK requested that the wetland be flagged prior to his visit. The matter was continued to next month's meeting. LB suggested extending the Wetlands Permit period to two years in orderto coincide with the other permitting authorities, because similar issues had arisen in other cases.

*Applicant: Edgar Polhemus II (EP)*  
*Representative:*  
*Tax Lot: 89.-1-10*

*Permitting Authority: Wetlands Inspector*

EP stated that he had filled in the area behind the house and brought it up to grade with the rest of the house, and in the process “gotten a little close to the brook,” which is located in a deep gully.

DK suggested the use of core logs to protect the stream to prevent erosion, rather than a silt fence. DK also noted that since the grade between the house and the embankment was fairly level, plantings up to the edge would be very helpful.

JS asked the stream’s Class and whether it is DEC regulated.

Both DK and EP said they thought it was not DEC-regulated. AG and DK noted that this construction had been done without a permit and had created a major erosion issue.

EP said that debris had been present for decades and said it had been pretty much filled up to the original grade. He said that there was not much growing in the wetlands.

DK said that there was not much growing down there now but that vegetation might have existed previously.

EP said there had not been much growing there even prior to the construction. He mentioned that he had been planning to add topsoil and plantings.

JS said that the area in the buffer zone was huge, 2000-3000 yards and that a professional plan was required, whatever Mr. Polhemus was planning to do.

DK said this is the largest wetland violation he had ever seen, and that it was necessary to decide whether the town would have granted a permit in the first place, with various environmental controls. DK noted to EP that under the law he could be asked to remove all of the materials that were in the buffer zone, but that there were less radical ways to solve the problem.

JS asked DK to forward the legal requirements for Mr. Polhemus to give to his engineer, because the CAC needs an licensed professional’s plan of work already done and of work proposed, including erosion-control details. JS noted that the plan must be done by a licensed surveyor, licensed engineer, or a licensed architect.

RD said he wanted to expedite this plan in order to get the necessary work done asap in order to minimize environmental exposure.

JS asked if there was anything that could be done immediately to limit potential damage to the wetland.

DK suggested hay or straw mulch or salt hay. DK also offered to take another look at the property and make recommendations re additional measures to protect the stream from erosion.

*Applicant: Julisa and Paul Tomizawa (PT)*

*Representative: Bruce Elton (Builder) (BE)*

*Tax Lot: 17.-3-9*

*Permitting Authority: Wetlands Inspector*

JS noted that the application is for a wetlands permit to construct a new house in a wetlands buffer.

DK noted that (a) the pond is the same as the one on the Mackin applicaton; (b) it is a typical eutrophyng farm pond; (c) the applicant's site is opposite Mackin's; (d) it has a rock dam rather than a cement one; (e) the water from the pond exits on the other side of the rock dam, so the outlet stream isn't involved; (f) the driveway and much of the house are inside the 100 foot pond buffer, as is the septic field. DK said he told the engineer that the septic must be shown as a radius from the pond and not just the site distance.

JS asked who is engineer.

PT responded that Mark Troy is engineer.

DK said 9 copies of a larger map, not the single one presented at this evening's meeting must be supplied as part of the application.

RD noted that the house is totally in the buffer.

BE replied that that the shape and configuration of the property made this the only location for the house that would provide privacy.

JS asked if any wetland other than the pond was involved.

DK said no.

JS said he would like to make a site visit and that a proper plan would be required for the application to be considered, because of the proposed buffer location.

*Applicant: Armstrong/Lozier*

*Representative: Joel Trece (Architect) (JT)*  
*Tax Lot: 72.-2-50*  
*Permitting Authority: Wetlands Inspector*

JS noted that this is a resubmission for an addition to a house that is located on Lake Celeste.

JT explained that the permit had expired and that in the interim the project's had been reduced, with the footprint being smaller what had been proposed and approved in 2004. He also noted that the septic location is unchanged.

DK suggested the use of core logs instead of hay bales or salt grass, because this is a newer, better method of erosion control.

JS's motion to regrant the permit was seconded and unanimously approved, with the use of core logs stipulated.

*Applicant: Benjamin and Sara Crane*  
*Representative:*  
*Tax Lot: two-lot subdivision*  
*Permitting Authority: Planning Board*

The Cranes were absent; therefore, this matter was rescheduled to next month.

### **Inspector's Report**

- Determination of property on Hustis Road. It was twenty-four acres on the map, but now is down to 7 acres. It goes down to back of Barrett Pond and contains 2 wetlands. The owner must submit more a specific map. Some of the property had been donated to Highland Land Trust. Owner's name not provided. Owner inherited property and wants to limit his tax burden.
- Ferris road property. It may not be a wetland. If drain between properties is cleaned by hand, no permit is required, but if machinery is used, a permit is needed.
- The Jackel's are working on a plan for a permit application. A CAC member noted that an excavator had been observed at work on the property.
- Spoke to Krep's engineer. State is doing a study and Krep will submit a report when the state study is completed.
- AG mentioned observing a violation on Route 9, which DK said he was aware of and which DEC was investigating. DK said DEC had a court date on the matter. DK recommended that the Town take action if the DEC could not stop the project. AG noted that he had observed new work had been done on the day of the meeting. LK pointed out that DEC is an appointed commission that is subject to political constraints. DK noted that such cases are difficult to win in court because

of the private-property issues involved. JS said he had received a great deal of DEC technical assistance when designing a pond on his property.

### **Other Matters**

- RD noted a filled-in wetlands on Travis Corners Road that is less than  $\frac{1}{4}$  acre but that is deep and filled with wildlife. DK said the owner had flagged it and asked for a determination. Steve Coleman's determination had been that it was too small to be regulated. RD asked about the possibility of the town's reducing the regulable wetland size to  $\frac{1}{8}$  an acre. DK pointed out that  $\frac{1}{8}$  was the minimum size in Carmel. The other CAC members concurred. DK will confer on this matter with the Town Board.
- DK agreed with the CAC members that extending the permit period from one to two years would be a good idea. DK will confer on the matter with the Town Board. It may be in the Wetlands law, which then would have to be amended.
- As per RD's idea, JS agreed to obtain a PB schedule so that at least one CAC member can attend in case CAC input is needed on a PB application.

The meeting was adjourned at 9:30 PM

