

## **CONSERVATION ADVISORY COUNCIL MINUTES**

July 11, 2006

### **PRESENT:**

Andrew Galler, Acting Chair  
David Klotzle, Wetlands Inspector  
John Sussmeier  
Eric Lind

### **GUESTS:**

Steve Loria – re Jordan Application  
George Polich – re Mackin Application  
Tom Ptacek – re Bass Application

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 Andrew Galler at 7:35 PM

Applicant: American Tower  
Tax Lot:  
Permitting Authority: Planning Board

Since the revised wetlands plan that the applicant's attorney said would be sent had not been received and no applicant's representative appeared, the matter could not be considered.

However, Wetlands Inspector Klotzle reported on his walk-through of the site and examination of the existing plans. He said that what is termed a swale on the applicant's map is in fact an intermittent stream that comes under the road in a 12-inch culvert and comes down of the hillside to the east, cutting into it very. Mr. Klotzle said he is sure that it drains significantly into the wetland in all seasons. This is what the applicant proposed to divert.

Eric Lind suggested that the CAC make a site visit.

The matter will be considered at the September meeting.

Applicant: Bass (New application)  
Tax Lot: 45-1-4-22  
Representative –Tom Ptacek - builder  
Permitting Authority: Wetlands Inspector

Andrew Galler said that the site had been considered for a wetlands permit under a prior owner but that the project had not proceeded. The site contains a Cape Cod house near where the NY State aqueduct crosses Indian Brook Road.

Tom Ptacek explained that the current owner did not propose extend beyond the house's existing footprint, but rather wants to add an exercise room off the back of the garage and do some additional construction within the existing footprint.

Andrew Galler asked if this would entail constructing a foundation.

Tom Ptacek said either a foundation or, if the CAC prefers, piers could be used.

John Sussmeier asked about the topography between Indian Brook and the house.

Tom Ptacek replied that the house is above the brook.

Andrew Galler asked whether a field trip was indicated. He added that (a) his recollection was that the slope was not terribly steep and (b) he did not have a problem with a foundation but would prefer that it be constructed by hand rather than machine.

Tom Ptacek said the addition was small enough to permit hand-digging the foundation.

Tom Ptacek said it would be entirely within the existing footprint.

Andrew Galler clarified the matter by saying that what was proposed was to add a second story to an existing 1 ½ story house.

John Sussmeier said he thought a site visit was indicated.

Eric Lind said he thought an erosion-control plan would be needed.

Andrew Galler agreed and added that, in addition, a topo was needed.

Tom Ptacek said that he was planning implement extensive erosion control.

David Klotzle made several suggestions regarding erosion control measures, e.g., burying the silt fence be securely staked, buried six inches, and use wire backing on the down-slope side.

John Sussmeier said that the CAC needed (a) a site map, (b) an erosion-control plan including silt-fence siting, (c) a construction narrative, and (d) a site visit.

The other members CAC members agreed that a site visit should be made on the upcoming Saturday.

The matter will be considered at the September meeting.

*Applicant: Flaherty/Percacciolo*  
*Representative: Anthony Percacciolo and Robert Flaherty*  
*Tax Lot: Tax Lot 27.-8-1-4*  
*Permitting Authority: Wetlands Inspector*

Neither Mr. Flaherty nor Mr. Percacciolo were present.

The matter will be considered at the September meeting.

*Applicant: Scott Pearson*  
*Representative: Scott Pearson*  
*Tax Lot: 38.-3-49-2*  
*Permitting Authority: Wetlands Inspector*

David Klotzle said he is unhappy with the way the wetland is shown on the latest site map.

Scott Pearson said that a neighbor had removed some of the wetland flags.

David Klotzle stated his and the CAC's disagreement with the phrase 'not wetland upland' on the site map. He added that he considered it to be a wetland, since it contains wetland vegetation and is enclosed by wetland flags.

Andrew Galler said that in addition to incomplete wetlands flagging and unsatisfactory wetlands delineation on the site map, neither a revised plan regarding the septic system nor a copy of the County Board of Health septic permit had been received.

Scott Pearson said he had supplied the permit.

After re-examining the application, David Klotzle said that a permit had been received but that it was illegible. He requested that a new copy be sent. He also said that the extent of wetland involvement combined with the project timeframe made an escrow account advisable.

Andrew Galler said it would be best to start and complete the project during a dry time of year.

Eric Lind said he knew there was no alternative, but that he remained very concerned by the proposed location of the septic in a wetland buffer.

Andrew Galler agreed, and added that this was somewhat unprecedented. He noted, however, that the subdivision took place some months prior to the passage of the town's first wetland law.

Scott Pearson said that Engineer Watson had told him that the original wetland law did not include ponds, and so was permissible.

David Klotzle disagreed. He said that Mr. Pearson's application was submitted five or six days after the original law came into effect. He added that at the time, the mandated pond size was larger.

John Sussmeier said that he did not think it worthwhile to dwell on these details, in view of the Board of Health's approval of the septic location. He said he was more concerned by the steepness of the slope than by the septic location.

Andrew Galler said he wanted to see more detailed wetland flagging in order to better understand what would be disturbed by the proposed construction. He also said that (a) the location of the stockpile should be changed so that it's no longer in the wetland and (b) the construction work ought not disturb the wetland.

David Klotzle said this meant that a construction narrative specifying wetlands should be supplied, and that it should specify in detail that construction will not disturb the wetland. He agreed that, in view of the Board of Health permit, nothing could be done regarding the septic location at this point.

Andrew Galler agreed and said that this was even moreso the case because even a lot-line adjustment would not lessen the danger of septic contents leaching into the wetland.

David Klotzle mentioned the possibility of using fabric or clay or some other form of impenetrable barrier to protect the wetland from septic leaching.

John Sussmeier said that he doubted large amounts of surface water went in the direction of the wetland from the septic location. He said he was OK with the septic, because there's no other option and the applicant does have a county permit.

Andrew Galler summarized by saying that (a) the applicant should be required to move the stockpile out of the wetland; (b) a legible copy of the County Health Department permit should be supplied; (c) the way the downstream slope would be stabilized ought be specified; (d) a construction strategy that would protect the should be specified

Referring to Andrew Galler's final point, David Klotzle said he would provide the applicant with ideas on plantings to protect the wetland. He also said that both the Cornell

Cooperative Extension Office and County could provide information on suitable plantings for the wetland embankment.

John Sussmeier added that a construction narrative also should be supplied.

The matter will be reconsidered at the September meeting.

*Applicant: Mackin*

*Representative:*

*Tax Lot: 17.-3.-8*

Permitting Authority: Wetlands Inspector

A neighbor of Mackin, George Polich, requested recognition to speak. He objected to Mackin's permitted driveway location, and said that Mr. Mackin had cut old growth trees and committed several other violations and/or encroachments on his (George Polich's) property. He also asked how relocating the driveway could have been permitted in view of its proximity to a wetland. He also said he had offered to let Mr. Mackin place the driveway on his property in a way that would not impinge the wetland.

Andrew Galler said the when the CAC had first looked at the application it knew the driveway location was problematic and that the simplest, least-damaging solution would be a lot-line adjustment, which Mr. Mackin had originally said he would try to secure. Susequently, however, Mr. Mackin informed the CAC that his neighbor (Mr. Polich) had refused.

George Polich said that this was untrue – i.e., that he had agreed to a lot-line adjustment - - and that he had a paper trail documenting numerous violations by Mr. Mackin.

David Klotzle noted out that the CAC had asked Mr. Mackin to mitigate any damage done to Mr. Polich's property as part of the permit. He asked Mr. Polich to specify and provide before/after documentation regarding the damage done to his property and offered to supervise Mr. Mackin's project, and to amend the permit granted to Mr. Mackin in ways mitigate damage done to Mr. Polich's property within reason; e.g., to replace trees that had been cut down.

Mr. Klotzle suggested that to avoid similar problems in the future, the CAC ought require that owners of abutting properties be notified when a neighbor submits a wetlands permit application. This would provide owners of abutting property the opportunity to state any objections to the applicant's proposed plan.

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

David Klotzle said that Mr. Jordan had not called, and that the Jordans still were awaiting a DEC permit determination.

A neighbor of the Jordan's, Steve Loria, was recognized by Chairman Galler.

Mr. Loria said that construction projects on neighboring properties already had done too much damage to the large (Class 2) wetland that passes through the Jordan property, his property, as well as several other properties. In light of this fact, he strongly expressed his belief that it permitting additional damage for any reason is unacceptable. He then asked why, given the fact that the NY State Department of Environmental Conservation has said that the construction of a driveway over the wetland on a neighboring property (Padilla) was illegal, should a similar driveway be considered on the Jordan property.

John Sussmeier noted that at the time the Padilla construction was permitted it had not been known that the construction went over a state wetland, and that only later on had the state stepped in and said that state approval was needed.

Andrew Galler noted that during the 1970s and 1980s a lot of poorly sited subdivisions had been permitted in the general location and that, in view of the fact that common-sited driveways were, because of the burden of maintenance, not generally accepted policy, this meant that property owners often had to request permits to cross a wetland in order to construct a driveway.

John Sussmeier noted that the pool on Mr. Loria's property was on a wetland and had been permitted by the Building Inspector. Andrew Galler said that communication between the Building Inspector and the CAC had improved greatly during the intervening period.

Steve Loria pointed out that the Jordan's knew that they had bought their property knowing that they might not get a wetlands permit.

David Klotzle noted that the law required balancing two goods: wetlands protection with fair use.

Steve Loria reiterated that too much of the wetland had already been damaged and that his property – including water quality – will be adversely affected.

Mr. Loria also asked why the driveway using a bridge over a portion of the wetland, which had been approved in the Wallis permit, could not be used as part of a common driveway used by the Jordans as well. David Klotzle pointed out that for both practical

and aesthetic reasons this was not an option for the Jordans and that this would not be a shared-driveway situation and would, in any case, still involve considerable additional crossing of the wetland by the Jordans.

Mr. Klotzle asked Mr. Loria whether he was posing these questions so that they would be included in the meeting minutes in order to help build a legal case. Mr. Loria said this was not his purpose but that, in any case, as a concerned member of the public he had the right to ask such questions.

Andrew Galler noted that historically the CAC and the Wetlands Committee – now combined -- were probably the strongest advocates in the Town of protecting the environment, but that they also had to operate under the constraints of the wetlands law and regulations.

The matter will be considered in September.

*Applicant: Wassil*  
*Representative:*  
*Tax Lot: 17.-2-40*  
*Permitting Authority: Wetlands Inspector*

David Klotzle said he had spoken with the Wassils, and that they had decided to resubmit the expired application, which had been approved, rather than submit a revised application. In view of this fact, Mr. Klotzle said he would like to grant a permit.

Eric Lind moved to approve.

John Sussmeier seconded.

The permit was granted.

*Applicant: Edgar Polhemus II*  
*Representative: Patti-McCormack-Smith*  
*Tax Lot: 89.-1-10*  
*Permitting Authority: Wetlands Inspector*

David Klotzle stated that he had spoken with Town Attorney Doyle regarding the fact that there were two owners (Charles as well as Edgar Polhemus) of the property abutting the wetland. He said that grass had taken, stabilization was effective.

He granted the permit without a vote of the CAC.

**WETLAND INSPECTOR'S REPORT –**

{Note: Because of a tape-recorder malfunction, this portion of the minutes is incomplete.}

- Hopkins property
- Walter Hoving property
- Determination re gas station across from elementary school
- Woods permit has lapsed.
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**The June and July minutes were unanimously approved.**

**A motion to adjourn was unanimously accepted.**

**The Meeting adjourned at 9:45 PM.**