

**Town Of Philipstown Conservation Board  
Town Hall 238 Main Street, Cold Spring NY  
Tuesday April 8,2012 at 7: 30 pm  
Meeting Agenda**

1) Discussion of a draft of a local law creating the Conservation Board.

\* Items May Not Be Taken In Order As Listed.



Town Clerk <[townclerk@philipstown.com](mailto:townclerk@philipstown.com)>

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**Text of draft law for formation of Conservation Board as an agenda item for CB meeting 4/8/12**

1 message

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**David Jewett Klotzle** <[dklotzle@bestweb.net](mailto:dklotzle@bestweb.net)>

Tue, May 1, 2012 at 4:03 PM

To: Town Clerk <[townclerk@philipstown.com](mailto:townclerk@philipstown.com)>



**CB Proposed Law.pdf**

310K

**SECTION 4. AMENDMENTS TO CHAPTER 10** (ALL NEW MATERIAL)

Chapter 10 of the Town Code of the Town of Philipstown, entitled "Conservation Advisory Council," is hereby repealed and a new Chapter 10, entitled "Conservation Board" is adopted, as follows:

**§ 10-1 Establishment.**

The Town Board of the Town of Philipstown, having adopted an Open Space Index, does hereby designate its Conservation Advisory Council as a Conservation Board pursuant to §239-y of the General Municipal Law.

**§ 10-2 Membership; terms; officers.**

A. The Board consists of seven members appointed by the Town Board of the Town of Philipstown for two year terms. Persons residing within the Town of Philipstown who are interested in the improvement and preservation of the environment are eligible for appointment as members of the Board.

B. The current members of the Conservation Advisory Council, and their two-year terms as they exist on the effective date of this local law, shall be converted to terms on the Conservation Board. Vacancies on the Board occurring other than by the expiration of a term shall be filled for the unexpired term in the same manner as an original appointment.

C. The Chairman of the Board shall be appointed by the Town Board from among the members appointed to the Board.

D. The Board shall elect a recording secretary from its members.

E. The Town Board shall have authority to remove any member of said Board so appointed for cause, after a public hearing, if requested.

**§ 10-3 Meetings and reports.**

The Board shall keep accurate records of its meetings and actions and shall file an annual report with the Town Board of the Town of Philipstown on or before the 31st day of December in each and every year. Once approved, the Town Board shall forward a copy of this report to the State Commissioner of Environmental Conservation.

**§ 10-4 Powers and duties.**

A. The powers and duties of the Board shall be to:

- (1) Conduct research into the land area of the Town of Philipstown.
- (2) Seek to coordinate the activities of unofficial bodies organized for similar purposes and to cooperate with other official municipal bodies active in the area of community planning for the particular municipality.

- (3) Keep and update the Open Space Index, as defined in §239-y of the General Municipal Law, with the plan of obtaining information pertinent to proper use of such open lands, including lands owned by the state, any other municipality within the state or by the Town itself.
- (4) Keep and update an inventory and map of all open marshlands, swamps and all other wetlands in a like manner, and with the option of recommending to the Town Board a program for ecologically suitable use of all such areas.
- (5) Review and report to any other boards or committees on such applications or matters as they may refer to it.
- (6) Have the duties, powers and authority conferred on it by the following chapters of the Town Code: Chapter 62, Building Code, Chapter 78, Driveways, Chapter 93, Freshwater Wetlands and Watercourses, Chapter 112, Land Development, Chapter 159, Timber Harvesting and Forest Management, and Chapter 175, Zoning.
- (7) Hold regular meetings no less frequently than once per month and hold such additional meetings as shall be necessary for the timely processing of applications.
- (8) In addition to the foregoing, carry out any other duties, tasks or responsibilities consistent with the objectives of this chapter.

B. The Board may:

- (1) Prepare, print and distribute books, maps, charts, plans and pamphlets.
- (2) Request the Department of Environmental Conservation to render such assistance and advice as the Board deems necessary and as may be pennitted by law.

§ 10-5 Compensation and expenses.

The members of the Board shall receive no compensation for their services as members. The members of the Board may be reimbursed for reasonable and necessary expenses incurred in the performance of their duties within appropriations made therefor.

§ 10-6 Notice to state.

Within 30 days following the designation of the Board, written notification thereof shall be sent by the Town Board to the State Commissioner of Environmental Conservation.

§ 10-7 Interpretation.

This chapter shall be deemed an exercise of the powers of the Town of Philipstown to preserve and improve the quality of the natural and man-made environment on behalf of the present and future citizens of the town. This chapter is not intended and shall not be deemed to impair the powers of any other public corporation.

## **SECTION 5. AMENDMENT TO CHAPTER 30**

Section 30-9 of Chapter 30 of the Town Code of the Town of Philips town, entitled "Officers and Employees," is hereby amended to read as follows (added language is underlined):

**§ 30-9 Residency requirement; state law superseded.**

A. The Wetlands Inspector of the Town of Philipstown, who may also be designated by the Town Board as the "Natural Resources Review Officer." shall not be required to be a resident of the Town.

B. Pursuant to the power granted to the Town of Philipstown by the Municipal Home Rule Law, this article supersedes New York State Town Law § 23, Subdivision 1, and New York State Public Officers Law § 3, Subdivision 1, to the extent necessary to give this article full force and effect.

**SECTION 6. AMENDMENTS TO CHAPTER 38**

Chapter 38 of the Town Code of the Town of Philips town, entitled "Planning Board," is hereby amended as follows:

1. §38-3, "General Duties and Responsibilities," is hereby amended by deleting subsection A(3)(d) and renumbering subsection A(3)(e) as A(3)(d).
2. A new §38-15 is hereby added after §38-14, to read as follows:

**38-15 Appointment of Alternate Planning Board Members.**

The Town Board may appoint alternate members of the Planning Board for terms specified by resolution for purposes of substituting as needed for a regular member in the event such member is unable to participate in a particular matter or matters because of a conflict of interest or because of an expected extended absence. The chairperson of the Planning Board may designate one of the duly appointed alternate members to substitute for a regular member where a regular member has a conflict of interest or expects to have an extended absence. Such designation of an alternate member shall be entered into the minutes of the initial Planning Board meeting at which the substitution is made. To the extent that the preceding three sentences may be inconsistent with Section 271 (15) of the Town Law, the Town Board hereby expresses its intention to supersede the Town Law in accordance with Municipal Home Rule Law, Article 2, §.10, et seq.

**SECTION 7. AMENDMENTS TO CHAPTER 62**

Chapter 62 of the Town Code of the Town of Philipstown, entitled "Building Construction and Fire Prevention," is hereby amended as follows (added language is underlined):

1. §62-2, "Definitions," is hereby amended by adding the following definitions in the appropriate places alphabetically within the Section:

CONSERVATION BOARD: The officially appointed Conservation Board, as described in Section 239-y of the General Municipal Law and Chapter 10 of the Town Code of the Town of Philips town.

NATURAL RESOURCES REVIEW OFFICER: A Town employee or consultant appointed to review development applications for compliance with Town environmental regulations, including but not limited to wetlands, steep slopes, and conservation analysis requirements of zoning. This position may be held by an official with other duties, such as Wetlands Inspector, Town Planner, or Town Engineer.

OPEN SPACE INDEX: The officially adopted Open Space Index adopted by the Town Board, consisting of a conservation open areas inventory and conservation open areas map.

2. §62-4F is hereby amended to read as follows:

F. Issuance of building permits. An application for a building pennit shall be examined to ascertain whether the proposed work is in compliance with the applicable requirements of the Unifonn Code, Energy Code and Town Code. The Code Enforcement Otlicial shall issue a building permit if the proposed work is in compliance with the applicable requirements of the UnifOilli Code, Energy Code and Town Code. If the proposed work is to be conducted on a property listed on the Open Space Index, the Code Enforcement Official shall refer the application to the Natural Resources Review Officer as provided in §62-19, Referral to Natural Resources Review Officer, and follow the procedures therein prior to issuing a building permit.

3. A new §62-19, entitled "Referral to Natural Resources Review Officer," is hereby added after §62-18, as follows:

§ 62-19 Referral to Natural Resources Review Officer

- A. Upon receipt of an application for a Building Permit, the Code Enforcement Official shall ascertain whether the property on which the proposed work will occur is listed on the Town's Open Space Index (OSI).
- B. In the event that the property is listed on the OSI, the Code Enforcement Official shall immediately forward copies of the application to the Conservation Board and the Natural Resources Review Officer.
- C. The Natural Resources Review Otlicer, after consultation with the Chair of the Conservation Board, shall review such application and submit a written report to the Code Enforcement Official within seven days of receiving the application. In the event that the Natural Resources Review Officer does not submit his/her repOli within seven days, the Code Enforcement Official may issue the Building Pennit without such report.
- D. The Natural Resources Review Officer's report shall evaluate the proposed work in terms of the Town's open space planning objectives, as expressed in the

Philipstown Natural Resource and Open Space Protection Plan to determine the effect of the proposed work on the Open Space Index. The report shall make recommendations as to the most appropriate use or development of the open area and may include preferable alternative use proposals consistent with open areas conservation. A copy of such report shall be filed with the Town Board and shall also be made available to the public in the office of the Natural Resources Review Officer.

- E. In the event that the issuance of the Building Permit does not follow the recommendations in the Natural Resources Review Officer's report. The Code Enforcement Official shall provide a written statement of the reasons for not following such recommendations, which shall be filed with the Town Board and shall also be made available to the public in the office of the Natural Resources Review Officer.

## **SECTION 8. AMENDMENTS TO CHAPTER 71**

Section 71-7 of Chapter 71 of the Town Code of the Town of Philips town, is hereby amended to read as follows (asterisks indicate where section numbers have been changed for purposes of cross-referencing):

### **§ 71-7. Fee schedule established**

As of September 3, 1993, the following fees are hereby established:

- A. Application to the Planning Board for approval of access because land is not shown on a town, county or state road: \$400 per lot.
- B. Referral to the Planning Board for approval of open development area plat under § 112-56, 112-57, 112-58, 112-59 or 112-60: \$400 per lot.
- C. Application to the Zoning Board of Appeals for a variance or other action by the Zoning Board of Appeals (other than Article IX\* of Chapter 175): \$200. The fee does not include the cost for a building permit. If a pennit is authorized, the fee shall be paid as in provided in Ch. 71, Art. IV, Building Fees.
- D. Application to the Planning Board for site plan approval as per Article IX of Chapter 175 (other than communications towers): \$500 plus \$50 per parking space (new or revised) for the first 25 parking spaces, plus \$20 per parking space (new or revised) over 25 parking spaces. Application to the Planning Board for a sign only: \$50. Application to the Planning Board for landscape revision only: \$100. Application to the Planning Board for lighting revision only: \$100. The foregoing fees do not include the cost for a building pennit. If a pennit is authorized, the fee shall be paid as in provided in Ch. 71, Art. IV\*, Building Fees.

E. Application to the Zoning Board of Appeals for a special use pennit under Article IX of Chapter 175 (other than communications towers): \$500. Application to the Planning Board for a special use pennit with site plan submission: \$500.00 plus \$50 per parking space (new or revised) for the first 25 parking spaces, plus \$20 per parking space (new or revised) over 25 parking spaces. The foregoing fees do not include the cost of a building permit or a certificate of occupancy which shall be procured under Ch. 71, Art. IV\*, Building Fees.

F. Application for soil mining under Articles IV\* and IX\* of Chapter 175: \$500 plus \$0.10 per cubic yard of material estimated to be excavated or removed. The inspection fee under § 175-17.4\* shall be \$0.10 per cubic yard of material authorized to be excavated or removed under the plan as approved.

G. Application for subdivision approval pursuant to Part 1 of Chapter 112, Land Development:

(1) Preliminary approval of application and minor plats: \$500 plus \$250 per lot on an existing street or right-of-way, or plus \$400 per lot on a new street or right-of-way.

(2) Final approval of application: \$500 plus \$100 per lot.

*(Subsection H, Planned Development Application has been deleted)*

H. Petition to amend zoning law under Article X\* of Chapter 175: \$500.

I. Communications towers.

(1) Application to the Zoning Board of Appeals for a special use pennit, or to the Planning Board for site plan approval, for a communications tower or collocation:

(a) New communications tower: \$10,000.

(b) Collocation: \$5,000.

(2) The foregoing fees do not include the cost of a building permit or a certificate of occupancy which shall be procured under Chapter 62, the fee for which is provided for in Ch. 71, Art. IV,\* Building Fees.

## **SECTION 9. AMENDMENTS TO CHAPTER 78**

1. §78-2B is hereby amended to read as follows (new language is underlined):

B. Upon receipt of the application, the Building Inspector shall refer a copy of it to the Town Superintendent of Highways for the latter's review and approval or disapproval. If the application is for an operation to be perfonned on a property listed on the Town of

Philipstown Open Space Index, as defined in Chapter 30 of the Town Code, the Building Inspector shall refer the application to the Natural Resources Review Officer and shall not take action until the requirements in §78-7 have been met. If the Superintendent of Highways approves the application, the Building Inspector shall issue such permit, provided that there is compliance with the provisions of this chapter and all other laws, ordinances and rules and regulations of the Town of Philipstown and the Highway Department and other municipalities having jurisdiction pertinent to the application. Such permit, when issued, shall be effective for a period of time not to exceed six months, and the expiration date shall be specified in the permit. Such period may be extended by the Building Inspector for the completion of the operation, if so requested in writing by the applicant, prior to the expiration date, for such additional period or periods of time authorized by the Town Superintendent of Highways.

2. Chapter 78 is hereby amended by adding a new Section 78-7, which reads as follows:

§78-7 Referral to Natural Resources Review Officer

- A. Upon receipt of an application for a Driveway Permit, the Code Enforcement Official shall ascertain whether the property on which the proposed work will occur is listed on the Town's Open Space Index (OSI).
- B. In the event that the property is listed on the OSI, the Code Enforcement Official shall immediately forward copies of the application to the Conservation Board and the Natural Resources Review Officer.
- C. The Natural Resources Review Officer, after consultation with the Chair of the Conservation Board, shall review such application and submit a written report to the Code Enforcement Official within seven days of receiving the application. In the event that the Natural Resources Review Officer does not submit his/her report within seven days, the Code Enforcement Official may issue the Driveway Permit without such report.
- D. The Natural Resources Review Officer's report shall evaluate the proposed work in terms of the Town's open space planning objectives, as expressed in the Philipstown Natural Resource and Open Space Protection Plan, to determine the effect of the proposed work on the Open Space Index. The report shall make recommendations as to the most appropriate use or development of the open area and may include preferable alternative use proposals consistent with open areas conservation. A copy of such report shall be filed with the Town Board and shall also be made available to the public in the office of the Natural Resources Review Officer.
- E. In the event that the issuance of the Driveway Permit does not follow the recommendations in the Natural Resources Review Officer's report, The Code Enforcement Official shall provide a written statement of the reasons for not following such recommendations, which shall be filed with the Town Board and shall also be made available to the public in the office of the Natural Resources Review Officer.

## **SECTION 10. AMENDMENTS TO CHAPTER 85**

Chapter 85 of the Town Code of the Town of Philipstown, entitled "Environmentally Sensitive Lands - Identification; criteria For Use, Protection and Management," is hereby amended to read as follows (added language is underlined and deleted language is struck out):

### **§ 85-1 Title.**

This chapter shall be known as and may be cited as "Environmentally Sensitive Lands - Identification; criteria For Use, Protection and Management."

### **§ 85-2 Purpose.**

The way in which currently undeveloped acreage in the Town of Philipstown is developed is of critical importance to the public interest. It is hereby declared to be the purpose of this chapter to identify, and to protect and provide for proper management of, environmentally sensitive lands in order to ensure the public health, safety and general welfare for present and future residents of the Town of Philipstown. Pursuant to such purpose, this chapter also establishes criteria regarding the manner in which undeveloped acreage is developed, so that land may be appropriately used while protecting and providing for proper management of environmentally sensitive lands.

### **§ 85-3 Definitions; word usage.**

A. Except where specifically defined herein, all words in this chapter shall carry their customary meanings. Words used in the present tense include the future and the plural includes the singular.

B. As used in this chapter, the following terms shall have the meanings indicated:

#### **BUILDABLE AREA**

An area on a building lot which is free of environmentally sensitive lands and which is located so as to be usable for buildings in compliance with the building setback requirements specified in Zoning Law, Chapter 175, and which is in addition to land used or suitable for use for an on-site sewage disposal system in accordance with regulations established by the Putnam County Department of Health.

#### **BUILDING LOT**

A "lot" as defined in Chapter 175.

#### **LAND DISTURBANCE**

Site preparation, consisting of the removal of vegetation and/or the excavation, filling, grading or removal of earth, soil or rock, or retaining structures, whether by labor, machine or explosive. The condition of land disturbance is deemed to continue until the area of disturbance is returned to its original state or to a state complying with a permit for such disturbance granted in accordance with the Code of the Town of Philipstown or complying with standards for completion of a land disturbance in accordance with such Code.

## DWELLING

A "dwelling" as defined in Chapter 175.

## ENVIRONMENTALLY SENSITIVE LANDS

Consist of and are defined as the following: .

- (1) SPECIAL FLOOD HAZARD AREAS - As defined in Chapter 90.
- (2) STEEP TERRAIN - Consisting of Class I, II and III slopes As defined in Chapter +4+ 175.
- (3) STEEP TERRAIN WETLAND/WATERCOURSE TRANSITION AREAS - As defined in Chapter +4+ 175.
- (4) WATERCOURSES/WATERCOURSE BUFFER ZONES - As defined in Chapter 93.
- (5) WETLANDS/WETLANDS BUFFER ZONES - Consisting of:
  - (a) Lands that are regulated by the State of New York pursuant to the Freshwater Wetlands Act (Article 24 of the New York Environmental Conservation Law); and/or
  - (b) Controlled wetlands and wetlands buffer zones as defined in Chapter 93.

## STREET/STREET LINE

As defined in Chapter 175.

### § 85-4 Criteria for residential building lots.

A. The following criteria are applicable to each lot created after the effective date of this chapter and intended for use or used for a dwelling:

- (1) It shall contain a minimum buildable area of at least 6,000 contiguous square feet having a minimum dimension of 60 feet in any direction measured on a horizontal plane; and
- (2) It shall have a usable motor-vehicle driveway, or location for such driveway, from the minimum buildable area to the boundary of the lot that is also the street line of the street constituting access to the lot, and no part of such driveway shall be on steep terrain consisting of Class III slopes with a topographic gradient of 35% or greater.

B. The criteria in § 85-4A above are also applicable whenever the preparation of a conventional subdivision plan is prepared required in order to establish a maximum dwelling unit or lot count for some other purpose, such as in a conservation subdivision under provisions of ~ 278 of the Town Law.

### § 85-5 Criteria for land disturbance.

Land disturbance within special flood hazard areas is also subject to the criteria, standards and requirements of Chapter 90~ Land disturbance within watercourses/watercourse buffer zones and wetlands/wetlands buffer zones is also subject to the criteria, standards and requirements of the State of New York Freshwater Wetlands Act and/or Chapter 93, as applicable. Land disturbance on steep terrain is also subject to criteria, standards and requirements of Chapter +4+-175.

**§ 85-6 Criteria for special flood hazard areas.**

Criteria, standards and requirements for use, protection and management of special flood hazard areas are as set forth in Chapter 90.

**§ 85-7 Criteria for steep terrain; steep terrain wetland/watercourse transition areas.**

Criteria for use, protection and management of steep terrain consisting of Class I, II and III slopes and steep terrain wetland/watercourse transition areas are as set forth in Chapter 90, Section 175-36B.

**§ 85-8 Criteria for watercourses and wetlands.**

Criteria, standards and requirements for use, protection and management of watercourses/watercourse buffer zones and wetlands/wetlands buffer zones are set forth in the State of New York Freshwater Wetlands Act (Article 24 of the New York Environmental Conservation Law) and/or as set forth in Chapter 93.

**§ 85-9 (Reserved)**

**§ 85-10 Severability**

If any clause, sentence, paragraph, section or part of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered or as determined by such judgment.

**SECTION 11. REPEAL OF CHAPTER 147**

Chapter 147 is hereby repealed.

**SECTION 12. VALIDITY**

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudicated invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Town Board of the Town of Philipstown hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

**SECTION 13. REPEAL**

All ordinances, local laws and parts thereof that are inconsistent with this Local Law are hereby repealed.

**SECTION 14. EFFECTIVE DATE**

This Local Law shall take effect immediately after its adoption and filing in the office of the New York State Secretary of State.