

TOWN OF PHILIPSTOWN CONSERVATION BOARD

Via Zoom

May12th

Minutes

The Conservation Board held its regular meeting on Tuesday, May 12th, 2020.

Present: Mark Galezo
Lew Kinglsey
Robert Repetto
Jan Baker
Max Garfinkle (Natural Resources Review Officer)

Abesent: M J Martin
Krystal Ford

****PLEASE NOTE that these minutes were abstracted in summary from the meeting and a taped recording.**

Mark Galezo opened the meeting at 7:40

Karry Choy, 12 Hudson River Lane

TM#89.7-1-16 WL20-321

Mark Galezo stated that they were just waiting on the Choy's to get permits from DEC and that the board would follow there lead. Chris Eggers from Race Coastal stated that yes, they did receive the permits from DEC and they were forwarded to Mark and Max. Chris stated that the Army Corps permit was also issued as a draft and the only thing waiting on to finalize that is the applicant Karry Choy to send in the Money for the application fee. Karry Choy did send in the application fee and they are just waiting on the permit to be processed. Mark stated that a questions has come up in the past couple of days when Mark and Max went to visit the site and there was water that was draining and they requested that the applicant put in some gravel in the deeper part of the hole and create a dry well to catch all the water. I believe you have dug the hole put in the gravel so, I and I think Max will go down and take a look at it and if the board is

okay with it, I think this project is okay. I think they have addressed the drainage issue. Mark asked how the board felt on moving forward and they all agreed that they were fine with it.

Mark Galezo can I get a Motion?

Andy Galler: I'll make that motion

Mark Galezo: Can I get a second?

Jan Baker: Second

Mark Galezo: All in Favor?

Andy Galler: Aye

Jan Baker: Aye

Robert Repetto: Aye

Mark Galezo: Aye. Permit follows.

Riverview Industries, 3012 Route 9 Cold Spring

TM#27-20-1-12.1

Glen Watson is representing the applicant and Glenn stated that they have made little but positive progress with the property. Glenn stated that himself, Mark and Max had a site visit. There is a ditch on the north side of the property which they didn't think was wetlands. Max inspected that part of the property and stated that if they could bury that part of the ditch or put it in a pipe then they would be able to pull the proposed parking lot forward and make it a little wider and get further out of the wetland area which has clearly been violated in the back. There are also wetlands along the south side we have flagged and mapped that now. So, we still need a wetland permit but we think we can help the situation by widening it out and it takes more frontage along Route 9.

Max Garfinkle stated that the ditch that Glenn is referring to Mark and I were discussing potentially either piping or filling that drainage. Max stated that someone just went in there and created a drainage on the north end of the actual wetland portion that falls on the property. Max stated he see's no loss by filling that and allowing the applicant to move the proposed parking lot further away from the actual resource. Max stated that he stated to Glenn that they would have to have a discussion with the board not only to have the opportunity to move the parking lot away from the regulated resource but also allow for an additional are that could be restored potentially as mitigation to the violation. Max stated that the board will have to take a look at the site plan what they are proposing now after moving the lot further north and its intended use. Also, the restoration portion of the project.

Mark Galezo stated that the restoration is still in play in the back portion. Glenn stated yes, absolutely. Mark asked if they are still encroaching on the buffer with the new Plan? Glenn stated yes, certainly in the buffer there is no question about that. Now we are going to have a new buffer coming from the south.

Max Garfinkle asked if the board has been given new plans yet or if the planning board will refer it back to them when they are done. Glenn stated that he didn't think the Planning Board wanted to here this until they get the Conservation Board satisfied. Glenn stated that they should have more information for the next Board meeting.

Scott Johnson, Mountain Brook Drive, Cold Spring

WL#20-323

Max stated that the applicant is seeking permission for an access road to cross an intermittent stream and also install a curtain drain which is not within any sort of buffer but, would potentially provide some sort of insight as to whether or not they could proceed with applying for a septic permit or potentially having to apply for a effluent discharge permit through the DEC if the curtain proves to fit fail at draining land area. They need the permit to gain access to that part of the property but it does cross into a wetland buffer of the stream and then also across an ephemeral stream on the property.

Jan Baker stated that on the site visit there is an existing road on the adjacent property which is owned by Scenic Hudson. Jan stated that himself and Scott Johnson speculated if Scenic Hudson would give them access to use part of that road. It would be more protective of the general environment. Jan stated that Scott Johnson had a discussion with someone at Scenic Hudson and they stated no that they couldn't do that. Jan stated that he spoke to Michele Smith and that it sounded like something they would be interested in if they understood the benefit that would come from it. Jan asked Scott Johnson if he has a chance to follow up with Michele and he said he had not but he would as it sounded very encouraging. Jan asked max if he would help talk to Scott and Michele about this proposal?

Max stated that he would and that this puts them in a position of what the next steps are. If Scott is okay with pursuing that option then we don't have to consider what they have proposed in the application process at this time to the board. Scott Johnson stated that he would rather use exiting roadways if possible, then to treat a real intrusion into the landscape that will always be there.

Robert Repetto asked I know that the septic is outside the buffer but, it does say basically the discharge pipe is within the 100-foot wetland buffer. I don't know why we would even entertain that in a sensitive property like this and why would we want a curtain drain put into an area like this just to see if they could put something in there that will still require a violation or an exception because it's going to discharge in to the wetlands. Robert stated that he doesn't see the benefits except not putting a road in to do all that test work. Mark stated that during the last meeting the concept was that its all subsurface water that's moving along towards the lake and by doing the curtain drain which is 7 feet deep so, its intercepting all the subsurface water and its redirecting to the outlet pipe. There is going to be hydrologic change to the area beyond that curtain drain is going to dry it out to some extent, but that's the purpose you need to dry it out so put septic in there. We have to think forward if it gets to the point where you are going to put septic in there how big is the impact and is there anything you can do to mitigate the impact. Is it running into the lake is it still clean, are you isolating the septic from the

lake, how close is the septic to the lake those are all the questions that need to be answered.

Scott Johnson stated that if this does not work an application to the DEC for an on-site wastewater treatment plant which would be much more intrusive into environment. That would be a step two. Glenn stated that they would not be asking for an exception they would be asking for a permit. Jan stated that he feels this is a win win for everyone if they can get Scenic Hudson on board. Michele stated that something like conservation easement would be she thought attractive to them and she didn't know if you were interested in something like that. Scott Johnson will contact Michele from Scenic Hudson and will get back to the board if they need anything else from the board.

Max Garfinkle stated that is this agreement goes through with Scenic Hudson and potentially some of Scott's land gets put under conservation even or under protection through an easement to allow for access I think that the idea was that you know that would be a step towards mitigation if a system on the property would need to be put on the property that wasn't a standard septic system outside of the wetland buffer. Max stated that the best case scenario in terms of our permitting of the board would be that he can put in a conventual system but in case that a more on-site treatment facility needs to be installed because the curtain drain has failed essentially I think the idea was that we would take into consideration during our permitting that he has put portions of his property into protection in perpetuity whatever those terms may be in the future.

**Garrison Fish & Game Club Pond, 183 South Highland Road TM#61.-4-16
WL#20.322**

Mark Galezo stated that he will listen to the application but, if it comes to a vote, he will recuse himself as he has associations with the club. Mark stated that they have been talking about killing the water shield that has grown in the pond. Mark asked Andy what his thoughts on this as he has the most ad versed as he is a chemist. Andy stated that he is familiar with the particular herbicide while it is a volatile herbicide which we try to stay away from when you're using it in water. Perhaps a volatile herbicide is beneficial because what does not kill a plant goes into the atmosphere. There is, only three choices from reading the materials that were put together. One is continual cutting it, carp which Andy stated he is not a fan of and third herbicides so I'm not uncomfortable with it. It would be nice cost allowing if some form of knology report would be done so there is not long term herbicides being used in the pond. Andy stated that they should find out what is causing this maybe, just more growth or the houses near by reaching the lake and causing more growth. Mark Roland stated that he has done a site visit in July of 2019 the Garrison Club is completely buffered there is nothing leading up to it. Water shields only enter water body through seeds that are either brought in through waterfowl or from streams. Mark Roland stated that the club has looked into other alternatives but they are either too expensive or economical and were told they actually wouldn't work. You can't hydrate water shield the cost of aqua dredging is totally not effective. The cost they were giving was 150 to 200 thousand dollars. Mark Roland stated that he has been successful in treating water shield. We are just trying to open up area for fishing from the shore line and launching boats so, we are not trying to

lighten out a lot of area just so the club can utilize the lake for what its purpose was for. Mark Roland stated that they are only looking for a two-year permit from DEC to get everything under control. We are not looking for year after year of treatment at all.

Max stated that they don't issue article 15 permits for multiple years. The Philipstown permitting process would only allow on an annual basis as well. Mark Roland stated that it is not only an article 15 but an article 15 and an article 24. Article 24 is issued for multiple years and article 15 is only issued once a year. Max stated that they would have to file a pesticide permit annually. I would ask if you approved that you would approve it on the same basis as the article 24 permit.

Mark Galezo stated that they would not have to come back in to the board just pay the fee and renew it correct? Max stated that is correct.

Max said I guess the others the other point that we made at the meeting last month was that just to reiterate what Andy said was to look at this application to treat the target organism basically we wanted to see and evaluate the reason for conducting the treatment in both an ecological and recreational capacities. We were looking for more information on that essentially. Mark Roland stated that they provided enough information on why they need to do the treatment. Max said It's essentially for a recreational purpose? Mark Roland stated the idea is that you have a waterbody owned by the Garrison Fish & Game Club at the moment is basically unusable. They are covered in water shield the water shield needs to be controlled so it's time to utilize. DEC agrees with this as well and we are not trying to wipe out the entire water shield we are just trying to open up specific areas for them to utilize.

Robert Repetto asked that there are sources either the feed stream or the birds and migrants. Have you done any kind of survey in the general area to see if there's really any known source from Philips brook area? I was just looking on the map to see if there was another source that would just keep feeding into it. Mark Roland stated that every lake in the united states you can have one year of water shield and another year filled with water milk oil and then one year full of duck weed. Just because you have water shield upstream from it doesn't mean that it's going to move. Sometimes it does sometimes it will. There is no explanation where it comes from.

Mark Galezo stated that he feels this is a typical one that the board follows the DEC and if they feel it is an acceptable procedure and they're doing it according to Dec then I personally I don't wouldn't see an issue with it. Andy stated that he agrees with Mark it is a native plant and I was trying to find out why it grows in some shallow water bodies and not others.

Max asked where are they in the process with DEC right now in terms of the article 24 and the AQV? Mark Roland stated that they come hand in hand and he had a meeting two weeks ago with DEC. DEC has a guidance they have to follow with their 24 permits. They have to fit within the guidance and because it is a class A wetland that guidance is a little more stringent than any other freshwater wetland class. you know we kept on having a scale back in order for the biologists to be able to fit into the guidance the approval to use a herbicide to treat the water shield and he again did come up with what we felt was a reasonable solution to the guidance so, I basically got a meeting with the

people who work with me for the article 24 along with the article 15 as some people as well and you know we're looking at the hopefulness of a completed application within the next week or two and then it goes to public notification and then after that I permit would be issued and you would of course receive a copy of it as well. Max stated that he is not familiar with a Class A wetland what were there biologist concerns about your original plan? Mark Roland stated that their original plan was to treat about seven acres and they were not happy about removing so much of the water shield. With an article 15 and article 24 you have to fulfill the requirements for pesticides along of the requirements of the article 24 but you are getting two different permits and you'r still talking even though its DEC is two separate agencies within DEC together to get a permit. I first have to fill the article 24 and then with in that I have to fill the requirements of the pesticide permit itself. Max stated that he would like to hear that they reduced the treatment area into more strategic locations. Max asked if they have any of the technical information that was provided to DEC that would be helpful. I did get to see some of the memo's you sent back and forth to our secretary. I guess other questions would be alternate methods of control. Max asked if DEC had any concerns of biologically in terms what you may be affecting within the pond? Max think the Board should see if there are any other effects on organisms in the lake currently. Marl Roland stated the reason for using Clear Path is that it only affects plants that It does not affect animals in anyway. Max said he is talking about other plants that are desirable. Mark Roland stated that the only other plants that are within that water body is lilies which may a little brown. Mark Roland stated that he was in the water and there were not any other plants within that water body.

Mark Galezo asked if he recuses himself can they vote as they don't have a quorum? Jan stated that a board member can recuse themselves and still have a quorum to vote.

Mark Galezo asked if he could have a motion to approve this thing following the DEC permitting?

Glenn Watson stated that you cannot have a vote as there is not enough people to vote that you have to have four votes.

Max Garfinkle stated that he would like to see that they get approved through DEC and get some additional information. Mark Roland stated that with or without the Boards approval he would need to get approval through the DEC to move forward. Dec has the ultimate ruling on all this. I would not be treating the pond until I have a permit through DEC. Max stated that our wetland laws are build off of the state's wetland statutes as well so, ultimately, we too also have a final say in this matter. I know that you still need approval so that you're not in violation as a pesticide applicator.

Mark Galezo stated with the fact we don't have a quorum and that we don't need to give you a permit at this time because you will not have a Dec permit for some time we will wait until you get your DEC permit and then we will figure out what to do at that time. Mark Galezo asked how long it will take to get the permit? Mark Roland stated that he should have one in June and that's when he wants to start the treatment.

Robert Repetto asked if there is a best time to do the treatment. Mark Roland stated that the water shield has to grow and emerge out of the water. They want to do two full treatments or four half treatments over the course of six to eight weeks.

Manitou Marsh

Max stated that he just wanted to pass along information that the scientist has sent to him in regards to the marsh that is within Philipstown. They are looking to get permission to go into the Manitou Marsh to take sediment cores with students. She specializes in establishing these types of long-term geologic soil records and analyzing soil from wetland areas. They keep records to establish climate information and also Sea Bank information. They are looking for access and max stated that it doesn't look to be intrusive. It is all on foot no big equipment and they are going to provide the board with some transect lines that she would be walking with her class so the board would have exact location within the marsh. If the Town Board agrees Max stated that he would right her a access permit. Max stated that he would like them to provide the Board with information on how it went and the information they recovered. I will have to address with her that the North side of the road is not our property. She can transect that one to the south below the road. Max stated that he just wants it on the record with the board on what they will be doing.

Cloudbank LLC, 162 Cloudbank Rod Garrison

WL#20-325

Beth Evans representing Cloudbank. It is a class B dam as well as a class B water body. The Cloudbank pond is a class B stream that flows into the pond and then over the dam and back into the Hudson. The Roses bought the property about ten years ago and they hired an engineer to assess the dam and the report stated the dam was sound but, the recommended that the sediment accumulating behind the dam be dredged for the safety of the dam. They have had inspections done every year and the engineer states every year that the sediment behind the dam should be dredged. The Roses said this year it should be done as they swim in the pond and they boat in the pond. They decided if they were going to dredge the pond that they should dredge the rest of the pond back to the original depth that is was back in the 1900's. They have worked to find a contractor that will do this hydraulically both with a cutter head and also with a diver assisting head to really finesse the sediment removal to make sure that the pond edge remains vegetated and attached. The entire pond has a 235 to 240 acre watershed most of which is Federal or state land. They have a meadow area in the center of the property where they would like to dewater the sediment and then spread. They are estimating about six to eight inches of additional sediment spread over the meadow. The meadows are primarily organic soils that my believe came out of the pond when it was original dug. It is three to four feet of black organic sediment. We are talking about taking highly organic sediment out of the pond putting it in the meadow and receiving it with a wet meadow seed mix to ensure that we get a good cover. Beth stated that they have an application to the DEC and Army Corp and I have provided copies of those to you. Mark asked if this is essentially an underwater vacuum? Beth stated exactly, it has

a cutter head on the end of the vacuum hose which stirs up the sediment. They put a turbidity curtain around the work area on any given day so that they are not making the entire pond turbid when they are working. They find that it has enough of a vibration that all the living animals in the pond will move away from it. Except for a small beach area the entire pond is wooded around the edge. It's a perennial stream and two intermittent streams that feed it and lots of springs. Mark asked so, they extract the sediment it gets piped through a pipe continuously through the machine then just dumped out the other end right on spot. Beth stated Where it gets dumped out into geotextile bags dewatering bags that are placed over plastic and at the edge of the plastic are hay bales to make a little berm the water collected and pumped back to the pond clean.

Andy Galler stated that 7,000 cubic yards of sediment dewatered at 2,500 to 3,000 cubic yards is a vast amount of materials. Beth agreed it is a large amount of material. Andy stated within the report controlling invasive plants, phragmites is invasive I'm not necessarily going to call cattails invasive. Andy stated that there is a structure over the spillway is going to be removed or remediated reported by Taconic Engineers. Beth stated no, it's not part of this project. Andy stated that he thinks the permit has more going on then what Beth is covering and that it all should be done at once. Andy stated that the dredging is a big deal but if done right it should be fine but, the other two things should be within the permit. Beth stated that the engineer suggestion that the spillway be reworked and the dam rebuilt was rejected by the Roses. Beth stated the she included the report from the engineers just to show the consistent recommendations for the sediment removal. The Roses worked with DEC and instead of redoing the dam they put in a pipe along the side of the dam so they can put in a submersible pump into the pond and pump the water level of the pond down by a foot or two feet if there is going to be a big storm. The spillway and dam reconstruction is not part of this application.

Max Garfinkle stated that they would normally do a site visit but under the circumstances if Beth could flag the dewatering areas, the corners and we can go as individuals and take a look at the ponded area. Max was wondering if Beth would not represent it as a wet meadow currently? Beth stated it's deep organic soils but there's no geomorphic reason for those deep organic soils to be there. Max asked what you're looking at to you doesn't represent potentially controlled area that you would be filling on top of with the sediment from the lake? Beth stated she doesn't think so, but she would be more than happy to go out with them and take a look. Max asked if they are bringing the bags up to the area and then allowing them to drain? Beth stated that the bags are about 150 feet long and thirty feet wide so it's a four inch hose that comes from the pump it's going to go along the edge of the woods into the bag it feeds into the top of the bag the bags are porous the water comes out of the bag and it's collected on the plastic sheeting and then there's a pump in the flat on top of the plastic sheeting that then pumps water back to the lake. Max asked if the piping lays on the top of the ground? Beth stated yes. The Board with be in contact with Beth to get out to the property.

Mark Galezo moved to adjourn the meeting Andy Galler made the motion and Jan Baker seconded the motion. All were in favor and the meeting adjourned at 9:05 pm.

Date Approved: _____

Respectfully submitted by,

Kelly MacIntyre