

TOWN OF PHILIPSTOWN CONSERVATION BOARD
Philipstown Town Hall- 238 Main St. Cold Spring, NY 10516
July 13th, 2021
Minutes

The Conservation Board held its regular meeting on Tuesday, July 13th, 2021

Present:

Mark Galezo
Jan Baker
Andy Galler
Lew Kingsley
Robert Repetto
Max Garfinkle (Natural Resources Review Officer)

Absent:

Krystal Ford
MJ Martin

Please note that these minutes were abstracted in summary from the meeting and a taped recording.

Mark Galezo opened the meeting at 7:30 pm.

Old Business

Sharr White & Evelyn Carr-White, 20 Luzmlra Lane, Cold Spring, NY 10516 TM#38.-3-45, WL#21-339

Nick Pouder, the landscape architect on the project stated that they were before the Conservation board a couple of months before with a virtual presentation and they've made some major revisions to the plan based on the comments the board had after the site visit. He continued that he just wanted to walk the board through that. As the board knows there's a wetland on the site and also a lake to the east of the house and the earlier version of the plan had a wetland buffer intrusion not in the wetland but in the buffers for each and they had the pool in this area and that didn't seem to be very popular with the Conservation Board so they listened to what was said and have taken the pool and rotated it and tucked it up against the side of the house now. Now they have a terrace with a set of stairs, they can get onto this terrace directly from the house. It is a relatively modest sized terrace, a swimming pool and a fairly tight grading area to get it in keeping a fence line right up close to the perimeter of the pool, storm water infiltration area so all of the runoff generated by the patio can be captured and infiltrated into the ground and then the green shows a fairly extensive buffer area restoration. They have a little bit over 10,000 square feet of buffer enhancement now which is primarily located along the wetland because that's the drainage catchment that they're in. So, what they'd like to do here, the site is fairly steep in some spots and it's an extensive amount of lawn right down to the edge of the wetland and also to the edge of the pond so the strategy here is to take out a significant amount of that grass and also on

the southern edge of this wetland there is a strip that's unvegetated. The Whites have been cleaning out some of the invasive species over time. They have the sort of the trifecta. They have multiflora rose, bittersweet and garlic mustard. They have all the kind of standard invasive that you would expect to see on the edge of a buffer and they've been clearing that out. They're going to continue that clearing process of pulling the vegetation out. Manually is probably the way to go here rather than with an herbicide and they have a fairly extensive palette of all native plants. They've modified the planting plan a little bit from one of the earlier versions. These two areas on the steep slope going on to the lake were more of an ornamental type plant palette so now they've switched that over and they have all native plants. They always have to balance you know you want wildlife habitat but you don't want deer food. They want buffer or pollinator habitat and things for animals to live and nest in but not necessarily things that the deer are going to eat and that's always a bit of a challenge with the populations of deer. The value of this planting is somewhere upwards of \$70,000. He stated that is based on his experience growing up in the nursery industry and working in this profession for the last 30 years based on a reasonable multiplier for wholesale prices. It's a fair amount of hand work because of the location that it's in and the idea is that they'll grub out the grass and install these plantings to reintroduce a buffer where it's currently a lawn area. Mr. White has put together a package showing some imagery in there of the existing conditions and some of the different iterations that they've looked at. Earlier they had a pool that was proposed on the west side of the house but that was done before they had an actual delineation of the boundary and in fact the wetland buffer is much farther than they anticipated in that early scenario. So that scenario here would still have been partially within this buffer for the forested and shrub wetland on the north of the building. The wetland boundary is this line here comes up like that there's this little inlet that comes underneath the driveway here and it goes out here to a channel and then joins with the ponds somewhere over here. The lake boundary this contour line is the base of the slope where the pond begins and the buffer for the pond comes up into here. The house is actually in the buffer. Then the buffer for the wetland itself is actually here and it also clips the house and it goes here and it cuts over that way.

Chairman Galezo stated that was taken off the map correct, that section of the wetland?

Mr. Poudier replied yes, that was based on the board's delineation. (Inaudible) and it seems to stop where it intersects this other buffer. So I think what they've done graphically is it actually joined the two where they intersect so the buffer is actually kind of this heart shape.

Mr. Galezo stated that in the original map there were two separate buffers actually shown contiguous because the pond has a buffer that actually crosses over into the buffer of the lake so there was a section where the pool was actually encroaching on both. So, what they've now done is they've taken it out of the lake buffer completely and the pool itself is completely inside the buffer of the wetland.

Mr. Poudier stated that it's completely out of the pond buffer.

Jason Snyder commented that just the lake buffer is still is still on there.

Mr. Pouder stated that he thought it was a good idea to kind of get that as far as possible from both but he guesses the board didn't agree with that so they moved it.

Mr. Galezo stated when they were on site there were two possibilities. The perfect plan would have been to put it in front of the house where this is where it's shown on this older version but there's a septic and everything.

Mr. Pouder replied, right there's a septic in here and then they have a yard setback to here so and there are utilities in there as well.

Chair Galezo stated that they understood that it was going to be there was going to be a compromise at some point. He added that he noticed in their letter there's essentially a two to one ratio of

Mr. Pouder replied yes, so that's two to one of the wetland planting. They took the work area, the disturbed area and didn't give themselves credit for the lawn that they're restoring because they're going to dig this up and they're not going to leave it. That's going to get grass but he didn't count that section in there which is probably another 1,000 square feet but in true wetland buffer restoration that is a two to one for that actual temporary disturbance from construction. The actual permanent disturbance is the pool and the terrace and the pool equipment which is here so that was 1,200 square feet or so give or take so disturbance and 10,000 plus of permanent restoration.

Chair Galezo asked so to the north side of the pool that's lawn now, what will be happening to that small area right next to the pool?

Mr. Pouder replied this is going to stay lawn from the edge of the water of the pool. They're not doing a walkway on that side pool they're just having coping up to the grass and then they have the fences in the red line and so this from here to this line is grass and then right now the lawn edge is actually farther down and then this section in here is devoid of vegetation largely. So, they're pulling the one edge back cutting out the lawn and adding this buffer planting.

Mr. Galezo asked so how far back are we from that closest corner of the pool now from the actual wetland?

Mr. Pouder replied that he'd have to put a scale on there.

Mr. Galezo asked what kind of a pool is it?

Mr. White replied that it is a gunite pool.

Chair Galezo stated so dig a big hole right reinforcing bars and so on and then shoot the concrete. Will the area between the pool and in that area that they're talking about between in that little zone of grass be disturbed heavily while the construction is going on?

Mr. Pouder stated that he thinks that's something to work out with the board actually. He added that his sense was that they need to get the material out through here and that was the other thing. They had the construction access way coming through here for the first version which there was not a great other way to get there to build that but now with this here they can actually can get a machine through here without a whole lot of disturbance to the construction site. What he would suggest they do is a staging area. Do a soil stockpile here so they can dig out of this and swing and drop here and then load trucks out so that's almost entirely out of the buffer and then they would have a demarcation at the limit of grading here and not allow anything past that. That's how they would typically do a project like this. They would have a silt fence and double it with construction fence, they double it up you know the silt fence doesn't stop everybody so they will put the orange mesh fence there as well and keep people out. But the nice thing is they can stage a lot of stuff here and off the driveway so they can bring the steel in and the gunite rig can come in from this side as well and then the water truck will probably just leave it in the driveway and put and put a hose and that's how they like to work.

Andy Galler stated that he had measured this before. Basically, the pool at its closest point is roughly 53 feet from the wetland itself and the area of disturbance is somewhere about 34, 35 feet. He added that he's concerned that the elevation of the pool is above the wetland so it puts into place several prongs; One is how do they make sure in heavy rains the pool does not overflow into the wetlands? He added that he thinks that's very important to use some form of non-chlorinated system in case of a catastrophic situation.

Mr. Pouder replied that most communities that they work in now do not allow a discharge for a drawdown in the winter when you usually drop the pool. The old way to do it was just pump out the pool and let it rip and now what that most places want would be that it would go into an infiltration system and the way that they plumb these is with the automatic covers or even without automatic cover there's an overflow drain because eventually the pool will overflow and they typically run that into an infiltration system.

Mr. Galezo asked if that is separate from the one that they were talking about before?

Mr. Pouder stated that they've done it both ways. He then asked Mr. Snyder would he prefer a separate (inaudible) system for the drawdowns?

Jason Snyder (inaudible)

Mr. Pouder replied that's a good question. They would capture runoff whatever the design storm is and take that run off and infiltrate that. He added that he would say that since they're not going to put a catch basin and the overflow functions essentially as a catch basin for the water part and that would go into the infiltration system and then the drawdown would also, they would normally do that into the same thing.

Mr. Galler stated that his other comment and its sort of twofold is there needs to be some agreement to be able to upkeep particularly the investment and the vegetation that's being put in. A lot of this is

pretty much deer resistant but deer are curious pretty much once something new happens. He added he would suggest unfortunately for a year or two temporarily fencing as much as possible with plastic fencing because they could lose a lot, the other alternative is spraying it with a deer repellent.

Mr. Pouder replied there are three or four plants that deer don't eat but frankly a lot of them are non-native. They have pretty good luck with things like the fern and shad. They will go after milkweed and will go after asters on occasion. They tend to leave the birch alone although you have to worry about the buck scraping. They have good luck with plethora, redwood dogwood they will definitely nibble on occasion witch hazel but it depends on the taste of the deer.

Mr. Galler stated that's his suggestion for the first year or two just as little post as possible stringing the cheap deer fencing.

Mr. Pouder stated that one thing he's noticed also is when you bring a plant in from a nursery where it's getting liquid fertilizer every week and the deer know that's a nutritious plant. You let it sit there for a little while and it kind of stabilizes and becomes more like the native plants. He added that he works from Maine to Battery Park and there are deer almost throughout the entire spectrum and they have different tastes depending where you are and Philipstown is really one of the worst communities so he thinks fencing is a smart move.

Chair Galezo asked what they used for the storm period? Is it a hundred-year storm for the calculations for the amount of the volume of water?

Jason Snyder (Inaudible)

Mr. Galezo stated that in reality storms are coming more frequently so clearly a larger system it's his opinion from having built them. Increasing the size of the system is not that expensive. Building it at all in the first place is expensive but expanding it a little bit is not that bad. He would suggest they ask for a big enough system for sure to carry the primary runoff. He feels the pool should be a separate isolated thing that's never getting water in it except for when there's an emergency and the pool water which is chlorinated thus being they're containing it's still chlorinated even though it's a salt pool. It seems it may be better to keep the contaminated water separate and have a reserve for it always no matter what.

Mr. Pouder stated that typically they do a six inch draw down for a pool for winter so that'd be typical and he thinks the other thing that they could talk about is letting the pool sit for a while and let that dissipate before it's pumped out.

Mr. Galezo agreed that certainly addresses the drawdown but he's curious how much water do they think actually went into the pool in this last storm over the past few days? That's the kind of event he's thinking. That's the reserve system in case you have to pump it down because it's about to overflow and run down into the lake.

Mr. Pouder stated that they typically use a six-inch design storm for most of these that seems to be typical and what's the hundred-year storm, seven, eight and a quarter now?

Chair Galezo stated that the other thing he wanted to ask is we have asked in the past for a maintenance agreement on something like this being deeded in.

Mr. Pouder asked if the board has a template for a maintenance plan or should they give the board one.

Mr. Garfinkle replied if the applicant can provide one and then they can go back and forth with the verbiage.

Mr. Pouder stated that he can give them a model of one that they've used if it makes sense? He added that they usually do a five-year plan?

Chair Galezo replied that the point the five-year plan is great because it makes sure that the stuff is going to survive the initial period but the deeded thing is when you sell property in 20 years or 50 or 100 years it's still in place. He continued that they are allowing this to be in a buffer where they really would prefer it not be so this is something that the next owners have to be aware as soon as they open up the deed.

Mr. Repetto asked why are they ruling out of the buffer as opposed to putting it now in the buffer? What's the rationale for moving it in the buffer?

Mr. Galezo replied that when they did the site visit there were really only two possibilities. There was the first one in the front and then something where they're going to try to infringe as little as possible so the one in the front there were issues that there's a cesspool which is already a little bit tenuous of a system in the first place and it's right in front of the house near that patio and then you have setback issues so you wind up being corralled into this little spot where it's just and there are a couple of big trees there too. Wasn't there something else?

Mr. Pouder replied, the gas line but when they did that first scenario, they drew those plans based on what they thought was a wetland boundary and that turned out after the board's delineation was done that was frankly not conservative enough and the wetland buffer is actually bigger than that. So the pool was somewhere in here and that would actually have been partly in the buffer even then. He added that he doesn't know if it's even feasible there when based on where the actual buffer is.

Mr. Repetto asked about the first page of this document. You say is not buildable?

Mr. Pouder replied that's based on the original buffer that was an assumed buffer.

Mr. Repetto replied okay well that's important to know to understand that it's really not out of the buffer.

Mr. Galler stated if you look at the map it's not out of the buffer on the original plan at all. He added that he's not thrilled about this from a theoretical standpoint but thinks what they're proposing to do in terms of restoring a smaller wetland that's in pretty good shape but won't probably last over time it's probably a fair trade-off.

Jan Baker added that his recollection was that was the issue and Mr. Galezo made this point when they were on site really made this a preferred location because of the benefit to the site and the ecosystems of the wetland restoration and remediation which is being accomplished by the work described.

Mr. Pouder added that it's a pretty beefy buffer that they're putting in there. The applicant wants to do this the right way; we don't always get customers that approach a project that way.

Mr. Baker added that the wetland up at the top is failing and with their remediation he got fairly excited about the possibility and particularly moving the pool where Mr. Galezo suggested seemed like the least bad alternative of a lot of constraints in the site that just made it almost impossible to work with.

Mr. Pouder added that if this building were built today, he doesn't know that they would ever approve that much grass going right up to the edge of a resource.

Mr. Galezo replied that the truth is he doesn't think that building would be built today. They couldn't get a septic system.

Mr. Repetto asked what year was it built?

Evelyn White replied 1983.

Mr. Repetto stated that he's surprised it's just a cesspool.

Sharr White replied they were surprised too, that cesspool services just a single bathroom whereas the rest of the house has been re-routed to a septic system underneath the drive, so that cesspool is a remainder and they're hesitant to do it there. They were looking at the amount of disturbance that would have occurred really just feet outside of the buffer zone and he doesn't want to say there's no difference but that much disturbance they thought for the cost of that disturbance they'd rather take that cost and include that in a benefit to the property without this huge disturbance here.

Chair Galezo stated that the gist of the conversation when the board met the applicant was basically, they shouldn't be allowing a pool period. It's not a necessary structure so the answer was no but they all went further to say well what could the applicant offer to make the site better in fact than it was before the pool went in even with the presence of the pool. It seems that they've done everything and more than the board suggested.

Mr. Baker added and that's where the deeded maintenance agreement is really an important thing in terms of the permanent improvement.

Mr. Galezo stated that he does have one other suggestion. If we improve the site, it's a balance. How many bedrooms is the house, and how many bedrooms is the septic approved for under the driveway?

Mr. White stated that the septic is approved for four.

Mr. Snyder stated that the current septic is a repair and there's no bedroom count associated with repairs. It's for whatever the town legal bedroom count is currently

Chair Galezo stated that where he's going is the cesspool is obviously far inferior to a septic even if it is just a repair so if they could divert the cesspool into the septic that would be in the eyes of the board another improvement on the property.

Mr. Repetto stated that he was thinking along the lines of something with the cesspool to either to the septic or to maybe use a Peat system on the cesspool to kind of give that some kind of biological processing that it doesn't currently have. It is a little weird that it's just one bathroom.

Mr. White replied it's really strange. They were surprised too. Everything else ties into the new septic except for this but his assumption is it was an issue with getting liquid from all the way over the from one side of the house all the way over the other side.

Mr. Galezo stated that if they could do a simple pump system just for that one bathroom which would be a really minimal cost in the overall picture. A Peat system is fantastic but that's not minimal cost. He added that as far as he's concerned, they did everything and more of what the board asked.

Mr. Pouder stated that the cesspool is under the back patio on the west side and the septic is actually under the driveway. That was a modern design, it's H2O loading or there was some issue with pumping wasn't there?

Mr. Snyder stated that number one he doesn't like to pump to a septic tank because then you lose the acquiescent, it stirs it up.

Mr. Galezo stated that's actually not what he's suggesting. A simple pump system where you put a pot in the ground right underneath in the bathroom you pump from there into an existing line that runs out to the septic, they're just tying into one of the internal drain pipes in the house that's it.

Mr. Repetto stated they're cutting off the cesspool.

Mr. Galezo stated you take the drain line that comes out of that bathroom. Is it on a slab or is it accessible from the basement?

Mr. White replied that it is accessible, there's a crawl space.

Mr. Galezo stated so they cut the pipe off, cap it and the cesspool is eliminated. Then take that pipe and connect it into this septic line.

Mr. Snyder replied assuming that they can get gravity too.

Chair Galezo stated if you can't get gravity then they make little a little box that you put under the sink in the kitchen it's just a little ejector pump. It doesn't affect the whole system, getting that stuff out of the ground because a cesspool is basically a hole in the ground. That's all it is, it doesn't have any kind of separation at the septic tank.

Mr. Snyder added that in addition to all the other enhancements he doesn't think they really discussed this but they're also going to be infiltrating the existing roof leader footing drains from the existing house into some type of infiltration system because right now they just discharge right onto the ground.

Mr. Repetto stated that he doesn't know what direction the fields run?

Mr. Snyder replied here's the cover to the septic tank and drop boxes like that so they run parallel to this stone edging.

Mr. Pouder added that it's on their site plan, the most recent version.

Chair Galezo stated that he's curious to see hear what Mr. Garfinkle has to say.

Max Garfinkle stated that he's just writing down a laundry list of things if they're going to start looking at a conditional permit.

Mr. Repetto stated that he's just wondering about this septic system being so close to the buffer if they should consider a Peat system for something like that as well. That seems to be what they've recommended when these things are close. He continued that he knows this is not a repair on the septic so it's a little bit different but it does sound like it was already repaired and they do have the cesspool issue so he's just wondering if maybe some type of remediation with like Peat system on the main septic system might be useful here since it's so close to this wetland buffer.

Mr. Pouder stated that the system is outside the buffer.

Mr. Galezo stated that his feeling is that if the septic is actually working, you know the whole idea that you can't take anything just because it's an existing septic and it's been approved doesn't mean you can necessarily accept it as being as working but this is a good system it seems like, seven infiltrators and how big is the septic tank, 1250?

Mr. Pouder replied that it's not labeled on this.

Chair Galezo stated that a simple dye test to prove that the septic is working at maximum capacity to address Mr. Repetto's concern. Clearly they're dealing with this issue of this old septic that was built in the 1950's and it was a brick a pile of bricks and the water just went at the bottom it was ridiculous.

Mr. White (inaudible)

Mr. Snyder added that they could do a dye test. (inaudible)

Mr. Repetto stated that he just also wonders if in the requirements that they put some type of requirement about a periodic pumping just to not over tax it because people forget about that and don't do it every two or three years.

Mr. Galezo stated that he knows Ms. Martin would have something to say about this. She would be adamant that we should not be permitting this at all. He added that he doesn't want to put words in her mouth but she has been pretty vocal about precedent. He continued that he doesn't know how the rest of the board feels but if they're going to set a precedent, they have piled enough requirements on this one that it's going to be a hard act to follow for somebody just to expect the board to approve a pool in a buffer.

Mr. Baker stated that he thinks under these circumstances and looking at the site he was initially very negative for all the reasons previously discussed. He thinks this one is unique enough and the restoration is important enough that it makes sense and will enhance the property and the habitat significantly and he thought the deeded maintenance agreement is what may be the single most important part of it. Not only is it being done but it's required in perpetuity which he thinks increasingly rather than being a detriment for property values and resale would be an enhancement.

Mr. Galezo stated that the other key point he thinks they have to make somehow is that saying that it's a two to one ratio the next person walks in here and says "we're doing a two-to-one ratio you let the last guys go through so why can't we go through". It's the combination of everything this applicant offered which has been across the board. He added that he wants that to be on the record.

Mr. Repetto stated that it's more not to say the ratio it's more the capability that the restoration is offering. In this particular case it's a unique circumstance so there's more wetland capability that's being added here that's kind of mitigating the damage to the one area that's closest to that buffer so you are adding wetlands capability by adding this natural buffer. So, it's not necessarily the amount of land or the two to one ratio.

Jan Baker stated that there's a concept in law where a court is making a ruling that is the right ruling under the unique circumstances but the court doesn't ever want anybody to say well look what you ruled here and so at the bottom of the opinion they'll put a phrase that says "this ruling has no precedential value whatsoever and may never be cited as evidence of the court doing x", and that's sort of what the board is doing here.

Mr. Repetto asked so are we talking about that they're agreeing to do the pumping of the cesspool?

Mr. White replied that they certainly agree that's just good ownership and it sounds like they should probably look into rerouting.

Mr. Galezo stated that it's a whole lot of nothing. The system itself the sewage injector is probably \$1500.

Mr. Baker added that they did that on a prior house that had these same facts. The original part of the house had a cesspit. They put in a septic system and then ended up running the drain pipe from the oldest bathroom just like Mr. Galezo suggested and it was it was tremendously better to get rid of the cesspit all together.

Mr. Pouder stated that this has been an internal conversation with their team, they've talked about this cesspool a lot about how to fix this.

Mr. Galezo asked how often they have to pump the cesspool?

Mr. White replied every two years.

Mr. Galezo replied that they're probably going to save money in pumping the cesspool because the septic system will go longer between pumping.

Mr. Repetto stated that his understanding is a septic system should be pumped every two to three years especially in an environmentally sensitive area like this. He added that they used to talk with Mike Leonard about trying to get some type of guidance for the around the lake communities.

Mr. Pouder stated but it's pumping one system instead of two.

Mr. Garfinkle stated that he thinks at this point they could vote on a conditional permit and he just wants to run through all the conditions and make sure that the applicant has them down on record. He continued that he doesn't know if this was discussed necessarily with the board but in terms of a construction narrative he thinks that's really important to include on this plan especially regarding delineating the limits of disturbance for the pool and then wherever silt fence is going to be installed that needs to be shown on a plan and that should be wired back silt fence and that also the construction area should include the discussion about trucks entering in and out of the site, using this lane here or however they're going to pick their way through and in his opinion approaching the building of the pool and installing the overflow areas and all that in such a manner that during that construction phase they're limiting impact to almost nothing like as light as possible. In the future beyond the restoration the infiltration basins and the overflow and all that should be designed to the point where in a perfect world it can never potentially impact the regulated areas. He'd also like to see a construction narrative for the restoration portion of the project in regards to how those areas are going to be planted, methodologies, machinery, deer fencing should be shown or included. He thinks they also discussed

showing two different infiltration areas one for storm water and the leaders off the house and then anything in a separate storm area for any sort of overflow.

Mr. Pouder asked so you want to do the terraces and the downspouts into an infiltration area then the pool because if there's water overflowing from the pool it's going to have a salt system so that should go in a separate one, yes?

Mr. Galezo replied and the capacity for them to be able to pump the thing out say you know a hurricane is coming in you're going to get 10 inches of rain so you preemptively pump it down. You want a completely empty tank to pump it into. He added that they're going to write this list down and send it out and they'll have another conversation after this meeting.

Mr. Snyder stated that they've got the regular storm water overflow which is showing associated with the pool and then they've got the yearly drawdown. Is that going to be the same?

Chair Galezo replied that he's thinking the impervious areas and the roof and the terraces that's what they're capturing in the primary infiltration system. So, in addition to that because the pool itself is considered impervious because even though it's water in addition to that system if you wanted to back out the impervious areas of just the pool top the water surface itself and build a separate system for that which is going to have enough capacity for a standard rain event off the top of the pool and that goes into this plus whatever you need to do to pump into this separate thing. It's probably going to amount to the same volume. Except the second system is really there just to prevent from having to pump the chlorinated water into the other infiltration system.

Mr. Pouder stated so there's two systems. There's a true clean storm water if you will, terrace and roof and then there's the pool overflow and drawdown chambers.

Mr. Garfinkle stated that he thinks to add on to that point they mentioned something about an off-gassing process. Is that something that the board would want to see done here on an annual basis?

Mr. Pouder stated they would need to check with the pool people how long it takes to dissipate.

Mr. Galezo stated they used to call it 24 hours. He's talking 30 years ago you chlorinate the pool and in 24 hours of the chlorine level it dropped so much they had to replace. The sunlight just kills it.

Mr. Garfinkle stated that's in reference to just when we when they discharge.

Mr. Galezo replied, correct. At the end of the year they're going to do a degassing period and drain it down.

Mr. Pouder replied that they can look into that. He doesn't know the answer but that's worth looking into.

Mr. Garfinkle continued that the major point here was some sort of bond and deeded maintenance agreement for the restoration areas. He would suggest to the board that there's a 95% survival rate annually for five years for the plantings which is pretty standard and then the applicant's firm submits a survival report and then an annual report for five years to the Building Department. This is something that the board should weigh in on before construction begins or does it coincide with construction? Removing the connections to the cesspit proving that that's the case to the board and then putting in that pump system to the currently functioning septic area that's of a higher standard. How would the board like to see that submitted?

Robert Repetto stated that he thinks that's something that should have check-ins with Mr. Garfinkle that can be verified because if they find out that the septic's not working then there's another issue because it's so close to the wetlands.

Mr. Garfinkle stated let's look at that in the construction sequence maybe that's early on and that it's written down and there's some sort of assurance.

Mr. Galezo stated that dye test is the absolute first thing once they know the septic is okay then they move right down the list.

Mr. Garfinkle stated that the next point was a dye test and then just sending those results in and then that can lead to the next cascading sequence of everything.

Mr. Galezo stated that the construction sequence is going to be interesting when they talk to their contractor about what he's going to want to do concurrently. He then asked for a motion to approve.

Jan Baker made the motion, Andy Galler seconded the motion. The board voted unanimously to approve the conditional permit.

Mr. Garfinkle stated that he'll be in contact and asked that when they do finalize the plans if they could submit three hard copies to the Building Department and then digital copies to Ms. Rockett to submit to the board.

Mr. Poudner replied that he'll send over the maintenance plan they used in Newcastle which is pretty good maintenance plan just to get the dialogue started.

Dana Reymond, 2-4-6 Hudson River Lane, Garrison, NY 10524 TM#89.7.1.21

Ms. Reymond stated that they are here to ask the board to make an amendment to their permit that was granted in October 2020 for their new construction. The house is in two parts, it's physically two separate structures and the larger house is to the north and the smaller portion is to the south side. What had happened is they started excavation in March and they're not much further along because they hit so much bedrock. So much so that it was so close to the elevation of the land that they had to raise the house another foot just to get a functional crawl space for the mechanicals. Blasting was really

out of the question and they broke a few jackhammers trying to break it up where they needed get a basement stair in and even though they did the borings and had their civil and structural engineer and architect and our geotechnical telling them they would have an ample basement. She continued that they lost 70 percent of their basement and need it for many reasons. They need it for the mechanicals, for their own personal use, for the R.O system because the water's so terrible down there. So, they looked once the footings were around the smaller portion of the house and said let's pause and let's see if we can apply for a variance to encroach on the existing setback of 30 feet by 10 feet. Last night they presented to the Zoning Board and they granted the variance pending review with the Conservation Board this evening. They feel now that they see the kind of the flow of the bedrock that they have a better chance of having some basement in if they move the smaller portion of the house to the south. So that's why they're coming here tonight to ask if the board would consider amending the existing permit from a 30-foot setback to 20.

Andy Galler asked if the applicant can point out on the site plan where the shift is because he couldn't figure it out?

Dana Reymond stated the larger portion of the house they're are not moving. It's a studio building.

Mr. Galezo stated that really their question is, is there any change in the impact of what the applicant is proposing to build compared to what the board has already approved?

Ms. Reymond replied none that they see and none that their Civil Engineer sees. In the application is his letter stating as such. They're not shifting closer to the river; they're not shifting towards the wetlands even though they have the buffer of the train they're just shifting south.

Mr. Galler asked Ms. Reymond just to refresh his memory he did not remember a studio building.

Ms. Reymond stated it was always was there.

Ms. Reymond (inaudible) stated this is what was approved by the Conservation Board and by our building permit so the studio building sits right on the setback. What we're proposing now is to shift it this way which you see right here by 10 feet and our neighbors didn't object and we're pending approval from the Zoning Board.

Chairman Galezo stated in his opinion it feels like they're not changing anything, they're moving it sideways relative to the river.

Mr. Repetto stated that the buffer is not impacted. What they're doing here is moving it over here so the Zoning Board was really the main hurdle because of the 30-foot setbacks.

Ms. Reymond stated that if you're over 40,000 square feet you have to have a 30-foot side yard setback in their zone. They aren't unless you count the beach area which is the portion that's in the flood zone. So, it was determined they had to shift to 30-foot setback but they're really close anyway. She added

that they know they're taking a gamble but feel they're in really good hands and everyone feels that they're able to do this, the builder and Mr. Kalin, their Civil Engineer.

Mr. Galezo stated that he sees no issue with it. The other thing just interesting is the applicant is raising the house another foot. Very often the board will suggest they should really get their house out of the flood zone it's going to get flooded just for their own benefit get it up. So, they've lifted another foot so they've gone in a good direction.

Ms. Reymond stated that they're not in the flood zone up there and it's so interesting when you look at the FEMA map because it's a little deceptive and it looks as if all the houses on the lane are in the flood zone but actually the majority of the houses are out of the flood zone. The first group of houses because the elevation of the land is higher and then you dip down right and then you have trouble.

Chair Galezo asked for a motion to amend the permit. Jan Baker made the motion, Andy Galler seconded. The board voted unanimously to amend the permit.

Betsy Haddad, 15 Lake Celeste, Garrison, NY TM#72.17-1-15 WL#21-336

Manuel Quezada stated that he brought a map from the original ask from when they were previously in front of the board. That's actually not part of the presentation package. When he was printing out the drawings earlier today, he figured out to add something for the board to react to what they're actually proposing. This first map shows the previous proposal so the yellow areas are pretty much what they are proposing now on the highlighted part. So, the biggest change was a suggestion that the board made is the rear addition that they're doing. They took that off, they're not doing that anymore. The only thing that they are doing in the rear is the balcony that is going to be a cantilever balcony from the first floor itself so that's why the yellow portion is still as part of the design. Everything else on this one it was proposed they have this yellow part is existing so they're just removing that and creating an outdoor space in that portion. They are extending on the front as was part suggestion from the board members and that is showing into the map itself. They're squaring that off on the front of the house to give a little bit of the room that they're taking away from the master bedroom. The only difference right now is on the yellow part here and this is an obstruction of a balcony as well where the spiral staircase connecting the first floor with the ground floor and we already have an existing patio in there so the only disturbance will be the connection of this the spiral staircase to that existing patio on that area.

Chair Galezo asked so, that's a blue stone patio on a concrete slab?

Mr. Quezada replied yes and added that he does have the pictures in here so they can see that as well. They are thinking of removing the existing fireplace itself to make room for the balcony on the first floor.

Mr. Galezo asked so the original plan called for an increase to the footprint, on this plan how much are you increasing?

Mr. Quezada replied that from the first ask they are taking away about 200 square feet.

Mr. Galezo asked how much additional footprint are you proposing in this one?

Mr. Quezada replied this one is about 300 square feet.

Chair Galezo asked if anybody has any questions. He stated that he thinks the board is going to do a site visit. Mr. Quezada can meet them out there and just show them exactly what it is so they get a better sense of it.

Mr. Galler agreed he thinks they need to do a site visit because his gut impression is he's still uncomfortable expanding the footprint of the house where it is but thinks seeing it might help.

Mr. Garfinkle stated that he went out to the site and suggested that they come back before the board because he thinks when they go out there they can really get a look at the topography of the site and he wouldn't have asked them to do that without them all understanding that.

Mr. Quezada stated that he does appreciate it and that was something that after a couple months of rethinking the process they felt that it would be appropriate for what they asked. Again, making that a little bit over the addition change on the front it was one of the suggestions that was made by the board and they took that further to enhance the portion of what they are trying to accomplish. Mr. Quezada asked regarding the site visit should he coordinate with Mr. Garfinkle or with the board members

Mr. Garfinkle replied for Mr. Quezada to email him and Ms. Rockett and then added that they discussed having the applicant stake out all the actual changes too.

Mr. Quezada replied that they would do all that stuff for the board to visualize.

Other Discussion

Mr. Galezo stated that they are thinking of not having an August meeting none of the other boards are having a meeting in August, what's your feeling guys? He confirmed with Mr. Rockett that they won't have a meeting in August either. He then asked Mr. Garfinkle if he wanted to mention anything about Cloudbank.

Mr. Garfinkle stated that he thinks all the members are apprised of the situation. They didn't breach the clay again but they've restarted work. The board has put in a lot of safety measures, they sent the turbidity readings and all those things so they're going to be continuously monitoring the site. He added that he's pretty wary of everything that's going on up there. The water levels right now are so low, well maybe not you know since last week it may be worth him going up there in the next couple of days. They've been taking their baseline readings and they're supposed to be getting weekly updates. He added that he can forward that to all of the board members. That's just the baseline information so they have nothing to compare it too yet.

Mr. Repetto stated yes, but it's interesting to see what kind of data they're getting there. Do you know the test method?

Mr. Garfinkle stated that he thinks that they initially took water samples for the baseline and sent them to a lab and then they bought a handheld like meter that has a glass bulb on it that they can dip into the water and locations to take.

Mr. Repetto stated to compare to what the lab has so that they can have.

Mr. Garfinkle stated well yes, I mean logically that's what they would be doing but he's not sure if that's going to happen.

Mr. Repetto said maybe suggest that. That will help a lot if they have something compared to the lab then they're going to know if it's two percent off or whatever.

Mr. Garfinkle replied that he honestly just feels like this has become such a hard lesson for the board here. He doesn't think he would go through with this type of dredging method again because it just seemed like I don't know.

Andy Galler stated he was reading the minutes and it dawned on him in sort of retrospect is it's still mechanical dredging when they're doing siphon dredging.

Mr. Garfinkle stated that really the benefit is just to the property owner so that they don't have to lower the water.

Mr. Galler added and so they don't need large machinery.

Max Garfinkle stated that he felt like every other project where the board has approved something like this, they've been able to really isolate the site and that's been the key and this was a huge error.

Mr. Repetto asked wouldn't the other benefit though just be that if they do disturb it, it's siphoning it up so it's more likely any particles that release instead of it making a plume wouldn't just suck it up?

Mr. Galler stated that in theory the advantage for siphon dredging is theoretically doing less damage to the bottom of a pond. If you really think about it's usually done when a pond is eutrophying so essentially there's little of value in the bottom of the pond in terms of most flora it's just basically the fauna, the animals and the microbes and the plankton that's there.

Mr. Garfinkle stated that the other issue with that system that they put in place that I see is there's really no assurances that if it failed and then they just were dumping that water back in with no real oversight.

Mr. Galler stated the boards other learning was to really ask them what are they doing because originally it was supposed to just be a dam repair and then all of a sudden it morphed from there.

Mr. Garfinkle stated that the way that the project was pitched to the board was that the real immediacy with which they needed to approve the permit was for dam safety and there were lines in that permit application regarding working in the rest of the pond. He added that he felt like the board had every right to just stop work and that would be right into the project but they'll give them another shot.

Mr. Repetto stated that in the end removing the sediment is also value too for the long run.

Mr. Garfinkle replied he doesn't know; he'd have to really look. He thinks that they had been studying the pond for a long time and had a lot of limnologists look at it in a really like scientific light.

Mr. Galler stated that he doesn't think it was done, they didn't have any limnology reports.

Mr. Garfinkle stated that he thinks it was from Beth Evans's consulting firm but it was nothing more than maybe general recommendations based on her experiences on the property.

Chair Galezo asked Mr. Garfinkle to let us know what it looks like when you get up there and added that he can certainly join him.

Approval of Minutes

Mr. Galezo asked for a motion to approve the June 2021 minutes. Robert Repetto made the motion and Jan Baker seconded. The board was unanimous to approve June 2021 minutes.

Chair Galezo then asked for a motion to adjourn the meeting. Jan Baker made a motion, Lew Kingsley seconded the motion. The board voted unanimously to adjourn the meeting.

The meeting adjourned at 8:43 pm

Date Approved: 11/9/21

Respectfully submitted by



Cheryl Rockett

Conservation Board Secretary