

**TOWN OF PHILIPSTOWN CONSERVATION BOARD**

**October 12th, 2021 Minutes**

**Virtually Via Zoom**

The Conservation Board held its regular meeting on Tuesday October 12th, 2021.

**Present:**

Mark Galezo

Jan Baker

Andy Galler

MJ Martin

Robert Repetto

Max Garfinkle (Natural Resources Review Officer)

**Absent:**

Krystal Ford

Lew Kingsley

**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**

**Peter Lesser & Tina Park, 53 Philipse Brook Road, Garrison, NY 10524 TM#61-3-50**

Max Garfinkle stated that he and Andy Galler conducted a site visit and discussed some general additions to the plan that would help mitigate the overall impacts of moving forward with the garage renovation. It generally would be adding two additional locations for native plantings to stabilize the shoreline of Philipse Brook that runs on the homeowner's property. There are two locations that they picked out that could easily be stabilized with some beneficial natives that would also further protect the water quality in that area and would offset the small impact the garage renovation would have on the property.

Tim Rasik stated that with guidance at the site visit last Friday they identified two areas which they're going to introduce native plantings to help stabilize the soil and prevent erosion by Philipse Brook. One location is this area right here, there's a grass and then there's some erosion which can be seen, this root ball on the side of the brook and then the other area is actually closer to the road but still on the property. There's an area where there's a bald patch where there's some loose soil but they've identified those areas and would like to introduce native plantings to help stabilize that and to help mitigate the impact of the project. They're looking at introducing spice bush, dogwood, silver maple and shad bush in those areas. As a recap, they will have a rain garden which will take the water off the roof for the new addition from this line back and that will all go into a rain garden before being discharged. For those that weren't able to make it to the site visit

he shared photos which helped describe the challenges that they face at the site. There's a very steep slope that is behind the existing garage and comes down here and can be seen in these two photographs and this is the reason why they cannot expand in that direction because they're concerned with disturbing this this steep slope here.

Bob Repetto asked if they could build a wall and then run some piping that way and put in the proper type of drainage source there then to have all this runoff constantly underneath that the foundation. He added that there must be quite a bit of runoff coming off of that hill.

Mr. Rasik stated that at some point someone did put in a drain, they have attempted to deal with some of the drainage and runoff already in this location but they wanted to stay away from this hillside if possible.

Mr. Galler stated that he was out there and his initial opinion just driving by the house many times he would agree with until he saw the back of the house. Whenever the house was originally built, he doesn't think it was really excavated properly. There has been some stone work done over time and to build a proper retaining wall would probably do far more damage to the local environment than just doing the alternative and extending out four or five feet. The back is wet, it looks like it's drained properly but it's a there are seeps on that slope.

Peter Lesser stated that there is more than just the one drain in the back there are four of them in the back that then run under the house. He added that does get a little wet at times but for the last six years or so that they've lived here they've had no problem inside the house and really around the house it hasn't been bad.

Chair Galezo asked where those drains run out?

Mr. Lesser replied into the yard. One is out to daylight and one is a little bit closer by these stairs towards the other side of the house near where the rain garden is or it's going to be.

Chair Galezo stated that the Board just dealt with a project a lot like this, the amount of water coming off the hill going into all those drains can generate quite a flow out the pipe at the other end. He added that he's just wondering in terms of some mitigation possibilities if it's possible if that is doing any damage somewhere if a gravel pad or a rain garden concept or somehow tying that into the rest of the drainage.

Tim Rasik stated that they will have a rain garden in the front which will take the load off of this roof and direct that into the rain garden.

Chair Galezo stated that where the Board is allowing expansion of the footprint in the buffer, anything that's absolutely not absolutely necessary they're trying to find balancing mitigation. He then asked Mr. Garfinkle if he feels like it there's enough positive in that?

Mr. Garfinkle replied yes, he does feel like the increase in impervious surface and the total additional square footage makes this a project of minor significance similar to the Lake Celeste project. If the board was comfortable with the concept shown and the mitigation that they've proposed he wouldn't have any problem permitting it.

Mr. Repetto asked what is the purpose of the garage the expansion?

Mr. Rasik stated that the garage is on its last legs, it was not well constructed initially so they're looking at building a new insulated structure and then on the second floor there'll be a home office. They are a growing family and need space, a separation of family life and work life.

Mr. Lesser stated that the garage is not insulated and he's always felt that that's been a real energy drain and they're planning on putting a split system in just like in the rest of their house which they've added since they moved here. He added that he thinks it will help with energy use overall.

Mr. Repetto stated that he would like to see if carrying those plantings and trying to build some kind of more significant vegetation along that brook the length of the house would be beneficial just in general for the long term.

Mr. Garfinkle agreed and stated that the species they proposed they can discuss the sizing of those plants because they're all shrubs essentially that would really establish a good riparian buffer. When the canopy opens up to the west of the driveway that buffer is more apparent and where the bridge and some of the taller trees shade out those areas it's just basically exposed ground so there's a pretty good opportunity there to improve.

Jan Baker stated that Chair Galezo and Mr. Repetto's point is really a good one. Given the policy the Board is trying to follow on non-health and safety exemptions to work within the buffer zone of requiring significant mitigation. He added that they have to use some degree of judgment and common sense and even planting shrubs can get to be very expensive pretty quickly. Having said that he thinks it would behoove the board to look at something a little more robust along the longer section of bank just for precedent. That would really be a significant improvement to a larger piece of land and he thinks the more they can stick to that when granting exemptions, the stronger the footing the Board is on and frankly the better for the watershed the wetlands.

Chair Galezo agreed and stated that this is straightforward, they're granting an exemption it's the degree to which they are mitigating that feels a little sparse. It's definitely in the right direction and there's no planting plan yet but he thinks it should be substantially more. He stated that he doesn't want to set a precedent with actual ratios but if they're expanding the garage by say 200 feet then maybe they want to see 1,000 feet of plantings. Maybe four times, five times as much maybe they want to see twice as much. He added that he would like to see as much done in that general area as possible within economic reason. The other thing is the maintenance agreement and how long it goes and whether this goes in the deed again like the previous ones. Like Max Garfinkle said, it's a small project so how far does the Board want to get carried away with those

maintenance agreements and deeds but it feels like once the Board has set a precedent that they required it on one it should be a just boilerplate. It just goes with any of them where there's an exemption.

Mr. Repetto stated that he doesn't think it should be a ratio or it shouldn't be a percentage of the footage. It should be fit for purpose, what in that property makes a significant improvement? He thinks the focus of these mitigations should be that they're fit for purpose and that there's a significant improvement to the to the wetlands area as the compromise for the unnecessary expansion. He then asked the applicant if they could still replace the garage without expanding it and still have an office? What's the justification for the expansion?

Chair Galezo replied that if they were to tell the applicant to build it in the existing footprint then the Board would have much less pushback. But then the Board is giving up all the plantings and everything else that they're offering to do it almost feels like we're cutting off our noses to spite our face so because the additional square footage on this particular one is so minimal, he can't really see the impact being huge. He agrees it should just be very site specific not some ratio of square footage. But in this case, it's not going to make a huge difference and they're catching all the runoff from the house so they're actually improving the situation with the amount of water coming off it.

MJ Martin asked if as a Board can they think about what they call as an expansion on that if they want to do more planting by the brook can they share with the with the applicant what that might look like beyond what has been proposed?

Chair Galezo stated that whenever he sees grass it's just screaming to be replaced with something other than grass and the space between the garage and the stream is really what they want to protect the stream bank is obviously very important but that space between the garage and the stream maybe.

Mr. Repetto stated that whole corridor along the edge of the brook all the way past even where the glass sliding doors are looks like it could be beefed up significantly to prevent some type of runoff off of that whole side there. Maybe they could try and beef up that that entire shoreline there with some more significant plantings rather than just the grass.

Mr. Lesser replied that he doesn't think that's the problem, they've been wanting to do stuff, some nice plantings there. They don't think that's hard for them to incorporate into that it's something they've been wanting to do anyway so they'd love the Boards advice on what to do.

Max Garfinkle stated that the two locations that were proposed initially were just the most logical because they're the most void of anything right now, as you get further in front of the house, he thinks it'd be great to add more but it is it is much more established with a normal riparian buffer so he thinks there'd be no downside to improving all those areas.

Chair Galezo wanted to add to take a look at the driveways and dirt roads and how they react with the streams is notoriously a problem. He wonders if that's a place where they could throw something if does it pitch down to the stream?

Mr. Garfinkle replied yes, that's one of the areas they were looking at as well.

Chair Galezo stated that he personally thinks this one is good to go, if Mr. Garfinkle just takes the lead on and shows the Board what the final plan is.

Jan Baker stated that he thinks that's a terrific idea. It lets the homeowners expand the garage, have a home office, achieve work family separation. It also benefits the homeowners because the last thing they want is more erosion or stream collapse and it's good for the regulatory process in Philipstown from a precedential viewpoint. He continued that he really thinks this is a win-win particularly given the kinds of plantings that have been initially suggested all of which sound very well suited. He's sure that Mr. Garfinkle can help the homeowners and their consultants come up with alternatives that will be great for stabilization and protection but also will scenically and visually appropriate when sitting in the house looking down toward the stream.

MJ Martin stated that it is good for wildlife too.

Mr. Baker stated that this is the kind of example of cooperative partnering between the board and applicants that really helps Philipstown and helps everybody so he thinks for more they can do this kind of thing the better for everyone. In addition to everything else he wanted to thank Mr. Lesser and the co-applicant because this is really what the process ought to be.

Chair Galezo asked the Board member what they think about the maintenance agreement deeded in, taking some photos when it's done, putting it in the Building Department file? He then asked Mr. Garfinkle if they have the maintenance agreement that from the applicant with the pool over with by the pond

Mr. Garfinkle replied, not yet they haven't resubmitted new materials but he can find some examples of one that he does have.

Chair Galezo stated if the applicant will be would be okay with that, the Board would want some photos of it so it goes into the building department file, everybody knows what it was supposed to look like and there's a plan for it. Then five years from now if it's nothing but sand it's a requirement that it gets replaced.

Ms. Martin asked if Chair Galezo is suggesting that there be a maintenance agreement for the buffer plantings as well as the drainage in the rain garden?

Chair Galezo replied yes.

Mr. Repetto stated that he thought they agreed that was going to be the standard going forward. Is there a formal process they need to do that or is that just up to the Board to request that each time?

Chair Galezo stated that if there was a boilerplate physical document that gets presented to the applicant it has to be filled out and filed that's it it's a legal document.

Jan Baker stated that they could work with Steve Gaba and come up with a form and then part of the application process would be to require all applicants getting this kind of exemption or waiver to sign it and to have it filed and produce proof that it's been filed and recorded. That proof goes in to the building department's files so it's a permanent part of the Phillipstown real estate and deed records. He thinks this is the kind of thing if the Board can be consistent about it make it standard operating procedure eventually perhaps add it to the website even add the maintenance agreement form to the website so that everybody understands if you're going to get an exemption this is what you have to do.

Chair Galezo asked for a motion to issue a permit for the Lesser application.

Andy Galler made the motion, MJ Martin seconded the motion. The Board voted unanimously in favor to issue the permit.

**Jena Girouard & Jesse Husted Wildrick, 28 & 30 Hudson River Lane, Garrison, New York WL#21-333**

Chair Galezo stated that he knows there were a lot of comments the last time about massing and setbacks and neighbor's views and so on and he appreciates and respect all of those comments and concerns but is not sure that that is within this Board's purview and it's not something that they should be focusing on. He thinks the things on this particular application that they should be focusing on are the drainage because that is something they always deal with and the pool. He added that he feels that the pool falls into the same category as the last pool. The Board doesn't permit pools, it's not a necessary structure. If the applicant provides sufficient mitigation, then it's something they consider but, on this property, he just doesn't see where what could be done to make the property better even with the pool. As far as the drainage he knows they talked about the possibility of where all the runoff is going to go and his thinking is, well it goes into the river, it's clean rain water but the thought is then what is it picking up as it comes off the roof? Is it picking up asphalt? He added that he's just throwing it out there.

Andy Galler asked if Mr. Garfinkle knows what the DEC and the Army Corps thoughts are with quote unquote clean or relatively clean runoff going into the Hudson.

Mr. Garfinkle stated that he thinks their viewpoint is just mostly from a construction perspective honestly in this case he doesn't think discharge from an individual property that's of a non-commercial residence would be something that they would consider. It would all come down to gallons of water into the regulated resource per day which would be way under the threshold that

they would regulate. But it is up to this Board to regulate the gap between where they pick up and where the Board would start so that would be the Board's responsibility.

Mr. Galler stated that he sees two types of run off. One is basically from the structure, meaning the roof which he believes the roof is predominantly a green roof with some solar panels so that he's comfortable with. What he's uncomfortable with but doesn't think anything can be done about it is the lawns that run off into the Hudson River with whatever's put in them. That he doesn't think they can do anything about.

James Hartford stated the he thinks there's something similar to the previous applicant putting something into the deed that they're using natural processes for maintaining the property and not putting pesticides and things like that for example into the grass. There are mitigations that would certainly be beneficial that could be considered. He continued that he was a was a little surprised by Chair Galezo's comment about the pool compared to where they left off at the last meeting. He felt like there was a positive disposition towards the idea of using a natural systems pool. No chlorine, no chemicals, purely using a bio-based system to simulate a wetland. The pool is really a swimming pond essentially so there are no harmful additives to this pool and the intent is to make that clean water that one could drink. As far as any concerns about the roof they've submitted documentation about the green roof systems that they're proposing for it as well as he mentioned the last time that they would be using a TPO membrane. It's not an asphaltic membrane, there is no the off-gassing or byproducts. It's pretty much an inert material. There really won't be anything like petrochemical based that would be leaching out of that membrane.

Mr. Repetto stated that from the standpoint of the filter his understanding from reading the literature is that it's an engineering solution. It's not a planted pool. There are planted pools that have like 70% is plantings and it is like a wetland and the wetland has a barrier and then it filters into the pool but those do act more like a pond, they have algae growth they even have fish sometimes on the planting side as the filter. But this is more of a regular pool but has a smaller section that's an engineered like a filter like one would have on a fish tank or a pond where it has a biofilm which is used to basically do the nitrogen cycle processing. So, it's charged with some bacteria and it's maintained.

James Hartford replied that the increased surface area in the kind of cartridge of it essentially is more efficient than the film that is hosted by the plants. Because it's really not the plants themselves it's the whole kind of the film that's growing on all of these things. Because there's so much more surface area there's that much more activated beneficial bacteria that are working on this. So, the smaller system is actually more efficient than the larger system. So, given the concerns of the site it is a better fit. It's also easier to maintain. There's less problems with it than plants that can die off from various reasons.

Bob Repetto stated that so can a biological filter. He added that he's had ponds for 30 years that use similar type of systems coupled with plants. He then asked if there is a mechanical filter as well?

Mr. Hartford replied, yes, there's a pump in the system it runs through basically a sand box and the sand is what carries the bio film. That's where the nitrogen cycle is processed so that the beneficial bacteria are working on that in the sand filter and so clean water comes out the other end.

Mr. Repetto stated so the bacteria are in the sand filter itself it's not like a separate biofilm filter with like plastic beads or anything like that.

Mr. Hartford replied yes to his understanding. It's a widely accepted practice in Germany and Austria and the installer that we're speaking to is trained in Germany and Austria in the system.

Mr. Repetto stated that if they went this route, they would write into the deed that it had to be this type of biofilm type of system or mitigate it in some way like that rather than putting a chlorine pool in there because he thinks that is a key aspect of it, but also since there isn't any plantings here and they are talking about drainage that's such an issue here especially along both of the neighbors' properties where they're raising their property so water flows down. He asked if he has a proposal for along both of the neighbor's properties on both sides to build some type of channel or rain gardens like we just talked about with the prior applicant. It seems like some significant type of rain garden along the entire line on both sides really needs to be done if you're going to be raising up and putting pressure on the neighbor's systems or sloping it all down into the middle of that little area where the boat would go because that seemed like that was a surge capacity. Would the surfaces be sloped to that to drain into that?

Mr. Hartford stated that the goal is absolutely not to just discharge water directly into the Hudson. That has never been the goal. He stated as you can see, they have a swale to the neighbors to the south because there's more space that they can do it. They basically designed that as a gravel trough that would be planted over with filter fabric to keep the soil out of the gravel so that they can create some retention in the gravel and the ability to discharge the water into the soil as much as possible. But to switch this out for a rain garden or a combination of the two would be a terrific solution for that. Currently they have a few butterfly bushes over here and he thinks adding more to that would be terrific. The neighbor's property is higher and slopes down so the Wildrick's finished grade elevation where they bring some fill in would be approximately equal to the elevation of the neighbor to the north. So, what they're talking about now is to actually to build up this retaining wall but in some ways it's not really a retaining wall because there won't be much of a difference at all between on the two properties. They're not draining towards them but they could certainly do their best to add some rain water attenuation there and hopefully plant things to help with that.

Mr. Repetto stated that during Hurricane Sandy when the water came in and it starts to flood the property if it's something less than catastrophic like that where does it go? If the design could help to guide it back to the river, he thinks that would be appropriate and then again, he thinks personally the water that falls on the property there shouldn't be any kind of residuals there it should be appropriate and would naturally drain back into the river eventually and it should be okay to do that.



Mr. Hartford stated given the tide situation there's a lot of water backing up from the river giving saturation to the soil. In the last high tide on the northern peninsula as we call it was flooded and it's all full of devil heads and so the flooding is real. The goal is to actually bring it up higher just to make it a little bit more usable for the clients and that's part of the submission to the Army Corps of Engineers and the DEC. The site in some ways belongs to the river and the goal of keeping this natural shoreline here through the site is working towards what Mr. Repetto was suggesting about allowing natural ebb and flow of the river as well as a little bit of relief in the changing tides.

MJ Martin asked what this property looked like over the weekend when we had the two-foot sea level rise and all those other issues on the river?

Mr. Hartford replied that he was just picking up trash on the beach at Stony Pond from the high tide and then looking down the river and seeing all the plastics was really disheartening.

Mr. Galler stated that he and Mr. Garfinkle were the only ones that went on the site visit and he really thinks that everybody needs to see this piece of property. His issue is the pool. He thinks the system they want to use is great but the issue he has is that they're doing significant rebuilding of the sea wall, probably needs it but then he has to question what type of precedent the Board is setting allowing a pool to be put in an area that they normally would never allow it to be because it's not an essential structure and they're really getting nothing for it. He added that the three of them briefly talked about how they are going to rebuild the sea wall and what they were told it was going to be done from the shore and he has a problem with that. That's probably not the best way to do it. That a cofferdam if you've if that's even going to be done a cofferdam is constructed and then it is rebuilt from the riverside so that there is no chance of anything getting in the river. He was really taken back by how thin the spit of land on the south side is and after seeing it he had to ask myself does this make sense?

Mr. Baker stated that the Conservation Board historically has done a terrific job of emphasizing what he would call a do no harm standard to the wetlands and water courses and he's not sure they have always been as consistent and as focused as they increasingly are to the point that is being made tonight, which is not only when a permit's being granted for a non-health and safety reason for work within the buffer zone is there a do no harm standard but there's also a make it better overall in addition to do no harm. He thinks what they're hearing is he and his clients are doing a terrific job on the do no harm standard. He thinks they're all struggling with the fact or the question of how does this really meet the make it better standard. If it's not an imposition and he would really appreciate an opportunity for one more site visit, for he and his client to just have an opportunity rather than trying to respond tonight to think about the in addition to do no harm what can this project contribute in terms of really making it better vis-a-vis Philipstown. That may just be his sense of where the board is but he thinks increasingly they're really focused on that as a prerequisite for these kinds of non-essential structures as well as focusing on maintenance agreements and deeded provisions so that all of this is locked down permanently.

Mr. Hartford stated that the Coffey dam is on the river side of the site for the obvious reason that that's where the work is going on and so the dry land once the water is pumped from that is where

the work is going on which is the shoreline. Working from the shore is what he is told from Race engineering this is the way to do it. He was of the opinion coming into it that it made sense to do all this work heavy work from the water and he stands corrected. The engineers who are the professionals on this have done several sea walls in Philipstown have said that the proper way to do this is from the shore and so where the strategy is to demolish the structure so that they have access from the shore to do the work it's the most stable and its most cost effective for many other reasons. He cannot speak to any other alternative than what their experts say on that.

Mr. Repetto asked if there is a proper way to butt up to those adjacent properties like a best practice or something like that that would be considered, obviously the engineers would know that.

Mr. Hartford stated that a concern that they've had is completing the peninsula. They've been talking to the neighbors quite a lot to make sure that their concerns are addressed and had invited them to participate in rebuilding their portion of the seawall and they declined. The applicant is looking at strategies to turn the corner here. Their site is higher than their clients on the most part. The property to the north is higher although it does slope down towards the river and so they've got basically rip-rap along their portion of the peninsula there. They talked to the neighbors about completing or the rebuild of the sea wall across their property as well and they were not in a position to do so. So, they're looking at returning this corner here where there would be the grade change and then the slope no longer drops off so they're addressing that portion.

Mr. Repetto asked what about the other neighbor on the other side?

Mr. Hartford replied that the shoreline continues down this way so it's a little bit to the east of the pier head and it's lower in general. He added that the Board members are welcome to come to the site anytime. The clients live in number 30, they're there all the time and he is 15 minutes away so glad to come anytime.

Mr. Repetto asked about the other neighbor's property, is that wall also an engineered wall it kind of looks like the same type of wall or is that like rip rap?

Mr. Hartford replied that he's not sure what happens on the neighbor's property down there. This is a retaining wall that's staying so their replacing the cap on it only just to bring more soil to the edge but not changing this retaining wall. The work on the retaining wall is on the north one.

MJ Martin asked Mr. Garfinkle if the Army Corps of Engineers has given any guidance on their ideal best practice seawall along the Hudson? Do they have any information on what they should be striving for?

Max Garfinkle stated that yes, the DEC does. The people who review the application in conjunction with Army Corps are out of the earner office and they have best practices in regards to how the sea walls are reconstructed or what they'd ultimately like to see these shoreline situations look like. In theory when they review these projects which they've their applications he believes to both

the Army corps and DEC through Race the project would be being evaluated with those standards in mind. But that being said if there are questions on the seawall, he thinks that's a major component of this project and something they would typically permit independently if this whole house construction wasn't occurring and we would have Race present and answer these technical questions for the board and it typically would alleviate a lot of the concern he thinks because a lot of those application packages are pretty voluminous. A lot of these questions that they're asking now are probably in what they've submitted to the Army Corps and picked out in this last submission but again if Race needs to be here and discuss this component of the project and get into the details of how they're going to contain the site and how they're going to do the construction and that's really important and something that the board should ask for.

MJ Martin stated that does appreciate seeing the entire project holistically. She applauds Mr. Hartford for giving the whole picture but she thinks that because that is such a key feature and also to Jan Baker's point if they're thinking holistically about the town and the welfare of the Hudson River then maybe they need to get a sense of what is the best practice so that every time something comes before the Board everybody's building in the same fashion. So, they don't have one neighbor has riprap, one neighbor has this, maybe the Board needs to have a best practice plan for waterfronts like this. She added that she doesn't have a problem with this house at all and thinks it could be a really great example of sustainable architecture in this town. She does get a funny feeling in the pit of her stomach when she thinks about putting a pool this close to the Hudson River. She's wondering if she is alone in that that or do other people have other concerns beyond the pool or if they set the sea wall aside are they just talking about the pool here or are there other concerns that people have?

Mr. Repetto stated that the properties that are coming before them, they've got very small lots in this case two smaller homes are being combined. It went to Zoning, it's within the zoning footprint from what Mr. Hartford has presented before but he still wonders if that's the right thing if that's really appropriate or not. It's obviously one home instead of two homes and two separate families living there but it does take up a big portion of the property and they're bigger homes, higher homes and again historical views are something that they normally try to protect. We have in other properties view shed, looking at the ridges the Hudson River the mountains and things like that.

MJ Martin stated but that's coded, they don't do that arbitrarily that's related to the scenic overlays.

Mr. Repetto stated that he knows Mr. Hartford has made a really nice attempt to do that and the property isn't taking full advantage of all the height, you know zoning and things like that but he just wonders if every property where there's a small house goes up to be a double house even if they're taking another property on the side, it's just it just seems like the whole area changes.

Jason Angell stated that it's clear that the Conservation Board does its due diligence in looking at all the issues it's concerned with and he thinks that is what's happening here but from his perspective on the Town Board as the Conservation Board is doing its due diligence to also weigh

what the value is of creating these living examples of sustainable building in the community and what that does for follow-up project projects as well. As a new Conservation Board Liaison, he understands that there's a lot of expertise on this board but he just asks also that they consider when property owners are trying to build these fossil fuel, green roof resilient structures that also is part of the equation.

Jan Baker stated that he agrees and thinks as an example of sustainable architecture this project is a home run. It's a wonderful addition, they can all question whether any of the properties on this road should have ever been built in the first place that's a different issue. The issue that is really troublesome to the board is primarily the pool and it's not because there's anything inherently wrong with the pool. He thinks the proposed solutions and structure and design of it are as good as it gets for something that that would be neutral in terms of impact on the site as opposed to chlorinated. He thinks though we they do struggle with the not only do no harm for pools but also make it better in terms of portions of the site as a whole but as to the house itself he's there.

James Hartford stated that an important aspect of the pool is looking at what's there currently. It's grass, that's all. Is a pool that is bio-neutral a detriment? is it an enhancement in a community that has no public pool or a public beach? It's important to ask these questions and how about precedent on a sustainable pool ecology. He appreciates the acknowledgement that doing a passive house like this, net zero, possibly net positive an energy producer, no fossil fuels on site. He appreciates that the board sees that as an example to follow, he's also offering an example in the natural pool in an instance where there's no ecology there. They're replacing grass with a swimming pond essentially and what harm can it do? Possibly if the wall were to fail but it's an engineered concrete structure. is that probable? Maybe if we had a devastating earthquake but he thinks they'd have a lot of other issues if that were the case. If the pool were to suddenly rupture because of say an earthquake so would the sea walls and so would the houses and so would other people's oil tanks. So, he's having a hard time understanding other than creating an undesirable precedent for building pool close to the water but that's why they're here. it's not an asset and so they're asking for the Board's consideration of that.

Chair Galezo stated that the precedent issue is critically important but everything that was just said really goes to a good point. Does planting have to be the only form of mitigation? No, because we accepted as part of the other applicant's mitigation the removal of the cesspool and pumping that into the septic and there were a bunch of other non-planting related, non-protection of the wetlands things that were done. So, does a passive house which has as we all have said project come with enormous benefits, green roof, no fossil fuels on the site, can all those things count as mitigation towards allowing a pool in the buffer? Would they have a leg to stand on when the next applicant comes in and says they want to put a pool right next to the river but is building a standard house code-built house?

Jan Baker stated that he thought that is a great point because mitigation is he thinks completely within the discretion of the board. There's nothing in the rules but you could say mitigation like beauty is in the eye of the beholder. The zero fossil fuel quality of this is a huge mitigation plus in terms of a holistic view of the project. He just thinks this is too important to try and rush it tonight.

He thinks the people who were out of town or unable to be there would benefit from meeting with Mr. Hartford on site because his commentary and judgments on these things are terrific and then decide what the board's comfortable with.

Mr. Harford stated that they also have samples accumulating here in the office of bird safe glass that they're considering for the project that is absolutely another mitigation. They've got a lot of glass, there's always high risk to birds. This is something they're trying to address as well and this would be the first for them in this project. The only project that he is aware of is Vassar college's science building.

MJ Martin replied and Minnewaska's visitor center.

Mr. Hartford stated that Ornelux is the product that they're looking at it's exactly what was put in at Vassar. It's got a very high success rate at preventing bird strikes and that's one of these things that they're looking at here. He understands the precedent issue but otherwise he's failing to see a detriment to the pool and yet another plus improvement that they're offering.

Mr. Repetto stated that he doesn't like the idea of putting a pool in the buffer but in this case there's a lot of just of grass and flatness if additional plantings could be made to make it more natural like kind of what historically what would be in the area along a shore along the Hudson, some kind of give back to the animals and the creatures that live there that could live in a salt-soaked area like this that definitely helps push in that direction. He added that he would have liked to see a planted pool as opposed to the biofilm or a combination with some planted just because it's a little bit more natural but again it's not it's going to be as clean it's going to have a little haze to it not always the most appropriate swimming thing but think about what you can do around that to make that a little bit nicer there.

Mr. Hartford stated that if that would be something that the board would entertain as an alternative to this pool, he would be glad to develop that further.

Jan Baker stated that he had forgotten the glass issue which he thinks is huge so all this goes to Chair Galezo's point that they've tended to focus primarily on plantings which are hugely important but it's a very fair question to say what can properly be considered to fit within the gambit of mitigation for the project as a whole and he thinks both of these issues go into that particular analysis.

### **New Business**

**Garrison Golf Club PDD/Hudson Valley Shakespeare Festival, 2015 Route 9 Garrison, NY 10524 TM# 60.-1-59.2 & 59.3**

Dan Hollis introduced himself and the HVSF team. He stated that they are grateful for the opportunity to be able to meet the Board in this forum and format so that they can familiarize the Board with the plan, answer questions, this is not going to be their only appearance before this board for sure because there's a lot to this project. They've been in front of the Planning Board now for 10 months. They pride themselves in their ability to be responsive to any and all inquiries

they have for more information. He continued if they have had a chance to look at the EAF part 3 submission they'll see that they have been as thorough and detailed as possible. They want to just let the Board know that they want to create the same atmosphere of collaboration and cooperation and will provide any and all materials that are asked of them. He continued that he knows there's one soil sample that Mr. Johannessen had promised Mr. Garfinkle that as to the small reed marsh area and that's in the works and will be forthcoming before they meet again.

MJ Martin stated that for the record she wanted to disclose that her employer the Hudson Highlands Fjord Trail also employs the firm that Ali Patrone works for. She didn't want there to be an appearance of conflict if anyone feels that there is a conflict, she will recuse herself from this conversation. The board members did not see a conflict.

Jan Baker stated that it would be really important for her to be able to participate in this because her experience is going to be really important in helping the Board thinking through and assessing everything they're going to be talking about with the festival.

Mr. Hollis stated that the site visits are clearly important and they welcome the opportunity to have that kind of interaction with this Board when it's convenient or the Board feels it's necessary.

Davis McCallum, Artistic director at the Shakespeare Festival stated that he thinks that first part of that moniker the Hudson Valley part is the secret of their success as an organization. Their work is really play based and has been for 35 years at Boscobel. The Hudson Highlands are really the backdrop of their plays and for 35 years they've been doing plays and people have been gathering outside and appreciating the wonder of the Hudson Highlands and they hope to be able to continue that tradition in their future home. He wanted to say a word of gratitude to Chris Davis for identifying a local arts organization as the next steward of the 98 acres that he's offering to the theater alongside a gift of 75 acres to the Hudson Highlands Land Trust and 30 acres that Mr. Davis is keeping as a house site for himself. This allows him to achieve the protection of all 200 acres of what's currently the Garrison Golf Course. They're excited about what that transition from a golf course will mean from an environmental standpoint in addition to the permanent protection of those 200 acres. They think it will help Philipstown reach their climate smart goals as the mowing of the fairways is converted into native meadows and the elimination of the use of pesticides which he knows is of particular interest to the Conservation Board, that run off into the wetlands and waterways and so in trying to get their arms around this opportunity they engaged a really incredible landscape design firm Nelson Byrd Waltz who were represented by Lanie McKinnon on the call. They have a really distinguished body of work that's all about ecological restoration and he personally has been very impressed by the thoroughness and attention to detail that they've brought to their work on the site plan and imagining a more ecological and sustainable future for the site. They hope that their goals as a client and as good citizens in Philipstown are aligned with the work that the Conservation Board has been doing. He added that they're really honored to have the opportunity to share some of the ideas behind the project and hope that it'll be the first of many productive conversations and look forward to working in partnership with the Board.

Chair Galezo asked if they could discuss what are the points that the applicant thinks are most directed at the purview of this board.

Mr. Hollis replied certainly the wetlands permit is what they need to address from and obtain from this board and Glenn Watson can certainly address that aspect of it and Ms. McKinnon who's already been given a pretty good and well-deserved buildup her planting plan is exceptional and he thinks not only mitigates but adds more in that mitigation effort. He then stated that Mr. McCallum touched upon the fact that the stewardship that Mr. Davis brought to this property in 1999 will live on through the Shakespeare Festival because they will be stewards of the property. Not only will the land be donated to the Hudson Highlands Land Trust but the Shakespeare parcel will have deed restrictions attached to it that will limit its development beyond what the approval is that is in front of the Town Board and the Planning Board and now the Conservation Board. In addition, Mr. Davis's residential parcel will have restrictions so that the only thing that can go on those 29 acres are a single-family residence and the pertinent accessory type structures that are customarily found in a property of that size. What's very important as well is that the native plantings and the new tree plantings to replace any trees that are taken down in the process is important. Mr. McCallum talked about the fact that they're not going to be fairways there anymore and the fact that this is an iterative process and that they want to hear from this Board what they can do to satisfy any concerns they may have. The one problem they have tonight is Jan Johannessen, their environmental consultant is the environmental consultant and wetlands person at the village of Mount Kisco and in the Town of Lewisboro and they meet on the Tuesdays. One is the first and third and the other the second and fourth. He asked if they might be able to have a meeting other than on a Tuesday as we go through this process so that we might have Mr. Johannessen here in the flesh and he'd also like to talk about a site visit before the weather turns bad so that they can take the Board to areas that might have of concern or interest that fall within their jurisdiction.

Glenn Watson stated that there are two areas where they will need a wetlands permit. First of all, the Snake Hill Road entrance that's existing today which is right about E and Snake that he's pointing to and it goes straight into the golf course now. Simply put it doesn't work, the sight distances are too short, they've tried to figure ways to lengthen them in either direction. They could improve the sight distance slightly but not very much. What they did was find another place on Snake Hill Road about twice as far from Route 9 and where they intend to enter the property from Snake Hill Road instead of at the existing entry. That will require the construction of a bridge that goes over the tributary to Philipse Brook that empties out of the big pond on the property. That is a bridge that's about 20 feet above the ground when it crosses over the stream and there's plenty of room between the bottom of the deck and the ground. So, in terms of impeding flow or animals he doesn't think they have any impact at all, there will be some structural impact about 2600 square feet of potential disturbance here within the wetland where they'll actually need a wetland permit for wetlands disturbance. They will then carry that grade across and up the hill on the other side of the stream to the point where they turn it and get out of the wetlands and stay out of the wetlands as they move along to catch up with the existing road and cross over it and have a new road that comes into the property and into the core of the site. When they make this bend, they have an encroachment of the proposed road on the wetlands buffer surrounding the

pond. In most of the areas where they have grades of road less than 3 percent, they are using pervious pavers to capture the water and avoid any excess runoff. They have a preliminary SWPP, it's preliminary because the SWPP has to be done when everything is in place. They can't do it at this point but they've demonstrated in that document which they've turned over a multitude of pages to the Town Engineer and we've put a synopsis of the report in the Environmental Assessment Form, clearly demonstrates that they have a number of places on the property to capture storm water and treat it, reduce flows and not cause any flooding or any damage from a point of view of flooding. Mr. Hollis mentioned the elimination of the fertilizers from the greens and the tees and the fairways and significantly fewer chemicals being used on the site. So, there's a lot of give back in terms of how we'll improve the site not to mention the fact that to repeat the fact that a significant property is going to the Hudson Highlands Land Trust which will keep it in conservation in perpetuity.

Lanie McKinnon stated that Mr. Watson did a great job giving some orientation on the site and she will try and follow that up with a bit of information on the overall kind of design. Where the number 23 is. That is the new proposed Snake Hill Road entrance that Mr. Watson was just speaking about and then the north/south road that you see along the edge that is Route 9 just to give a bit of orientation on where we are on the site. The project in its long-term view comprises a lot of different elements from the iconic Hudson Valley Shakespeare Festival open air theater and a back of house where on this plan is the 1,2 and 3 being a concessions and restrooms and this really looks to take advantage of the stunning views on the site that the community knows and really loves and pair those with a rehabilitation of some of the golf course lands through a series of meadow plantings and using their deep roots to be able to loosen up some of that soil and really provide more ecological habitat, more interest through the seasons than it is currently on the site around numbers 7, 8, 24 in the heart of project really that becomes a lot of the work that they're doing to provide new meadows, native plantings in that zone. When we move down the hillside where number 6 is that is the proposed parking that Mr. Watson was speaking about with porous pavement so they are able to absorb some water and that which doesn't get absorbed there are planting buffers there to capture additional runoff. Item number 10 is an indoor theater that pairs with the outdoor experience that they were talking about at tent number 1. A lot of the elements on the north side of the plan as you move north from 10 are all recognizable. They already exist. Number 20 being the parking lot, number 17,18,19 being the restaurant the wedding venue, the atrium. Then adjacent to that on a currently flat piece of the land is number 15 which they are proposing is a 20-room hotel for guests. Number 16 is a future parking lot for when the hotel goes in. This is a phased project so there are long-term goals, there are short-term goals and the hotel and we're speaking at number 15 and number 16 the parking for that are long term goals along with number 11 just to the north of that which is artists and guest lodging buildings. Those would also be long-term goals. On the west side of the plan kind of west of the existing structures there which many of you might know as the driving range they're proposing with the number 24 as rehabilitated meadows. A lot of this work has been built off of their ecologist who has been on site several times to look at these and has been making some recommendations about the typologies of habitat to employ that would be able to provide a benefit to this zone so one of the areas is number 24 in that that zone to complement the existing forest structure that's adjacent to it. Number 13 on the far west side here is additional artist and guest lodging on an existing green. She



stated again that they have an ecologist on board and one of the things that they've been talking about quite a bit which she thinks will be of interest to the Conservation Board is that the majority of the proposed work both in the short term and the long term occurs on the managed fairways, greens and tees boxes of the existing golf course. They're really trying to concentrate on already disturbed land and then by concentrating on that they're actually providing additional benefit through conservation through new plantings, through native species of trees. They've worked very hard to situate those within that already damaged landscape. She then pointed out number 12 on the north side of the plan you can see a white dashed line that runs along the service drive and out to Philipse Brook and down Snake Hill Road that's the 17 acres on this property on this side of the road and then the remainder happens on the north west corner across where Snake Hill turns from an east west road to north south road on the west side of the main parcel.

Glenn Watson added that what he should have mentioned and it's a little bit out of the scope but many of you will remember that there was a an existing PDD with a 40-room hotel and a lot of amenities. That didn't ultimately happen but what did happen was a very large septic system was put in northwest of the number 13 in that open area so that has reduced the need to build additional septic systems significantly. Depending on how it's ultimately structured in time it may be several years before they need to build a septic system and except for Mr. Davis's house, maybe for the tent but that's yet to be seen. At any rate a lot of the septic system is in place and ready to serve this this facility. Likewise, to the northwest and a little to the western end of that conserved area that Ms. McKinnon just pointed out there is a large detention basin and there's a drainage system that feeds much of the northerly portion of the property already in place and functioning much under its capacity so they'll be able to take advantage of that and not have to do any more disturbance in that area. They will eventually have to put in two wells, one for the residence and one to supplement the water supply but they don't have to put in a well for each of the buildings seen here and they'll have to put in some additional septic systems, one over in the vicinity of that number 24 on the eastern side of the property and one somewhere near the Shakespeare Festival tent. He just wanted to mention and point out that a significant amount of the subsurface infrastructure is already in place.

Mr. Hollis then stated that they'd open up to any questions or comments the board might have.

Mr. Galler stated that he had a couple of requests. The project is controversial, he falls in the middle. He thinks there's great things that could come to the town for it but thinks it also needs to be managed well. He added that he did want to remind everybody that while they permit for wetlands and in certain instances tree clearing and forestry, they are consultants to the Planning Board in regards to environmental effects as well as the different overlays such as; steep slopes, ridge lines and scenic views, etc. and he does think that they need to look at materials in regard to that.

MJ Martin stated that Mr. Watson mentioned that there was pervious parking that was being put in. Is all of the parking planned to be pervious?

Mr. Watson replied, yes, the two main two new parking lots are planned to be pervious the one parking lot that's already there is already impervious. Where the roads are flat enough, they're going to use previous pavers there too. There will be some additional storage underneath the pervious pavement for runoff, where this pervious pavement doesn't work where the slope gets too steep.

Ms. Martin asked Mr. Watson if he knows what the calculation is for the new parking lots and also the impervious building calculation is at full build up or at least a phase one and a full build out.

Mr. Watson replied no, he'd have to go into the storm water pollution prevention plan. But they have demonstrated in there if you look in that in that book in the EAF you'll see that all of the off-site flows have been reduced in all of the drainage basins so that the management will be better.

Robert Repetto stated that he knows there's a lot of little wetlands here and there as you're going through and obviously this project touches all the areas, some being built for a new type of use and some being returned back to the wild but how does that work when they've got lots of little wetlands. Are those separate permits or are we going to group the permits? It just seems like there could be 10-20 potential areas that might have some type of wetland impact so just wondering what the strategy would be.

Mr. Watson stated that he doesn't believe that they've identified all of the wetlands that will be disturbed in any manner. There might be some really tiny things that were water puddles and that kind of stuff. They will be using some of that and would take advantage of that to let some of the water drain to it but by and large he doesn't know of any place where there's any kind of wetland that they haven't avoided except the ones identified today.

Mr. Hollis stated that he thinks Mr. Garfinkle and Mr. Johannessen and have agreed on the flagging of the wetlands and the flags are still out there. He added that he thinks that soil test is an outstanding issue before it can be a final agreement on the limits.

Mr. Galler stated that he can comment on that because he had walked part of the property that's going to the Hudson Highland Land Trust if this all goes through. He thinks there's a lot of good that can be done to Philipse Brook that runs through there because there are old structures and retaining walls that are high that are not optimal and he thinks there can be some a lot of good that can be done converting them.

Chair Galezo asked Mr. Garfinkle if the wetlands that were flagged pretty clear on the on one of the maps is something that they could look at?

Max Garfinkle stated that in general it's pretty obvious, they walked the entire site together and looked at all the regulated areas on the property and there's really only one discrepancy on the eastern portion of the property along Route 9 where the applicant's wetlands professional is going to be providing some soil sampling to make sure that they have the right estimated acreage and are making sure that the estimated acreage is correct so that either the CB will regulate it and they

need to come before the Board for a permit for that area as well or disturbance to the buffer of that area or it would be underneath the board's threshold for regulation. He added that getting out on the site and taking a look because as they narrow scope down to what the board would be involved in there could be some major additions or big comments that they could put forth in terms of Mr. Galler's point management of the property and doing it in the correct fashion moving forward that would play into large large-scale mitigation of potentially what they'd be asking for access to the property and impacts to wetlands and regulated buffers for you know say the bridge span off of snake hill road.

Mr. Hollis asked if the Board would like to have a site visit before the snow flies.

MJ Martin asked if there is any chance that the wetlands can be reflagged if they if the flags have been taken out. That really would be helpful for the Board.

Mr. Galler stated that what might also be helpful to this Board just before the site visit is if where the applicant might be asking or impinging on environmentally sensitive areas and scenic and ridgelines, he thinks that would also be greatly helpful to the Board as they walk the property and can see what the potential problems might or might not be.

MJ Martin asked if there are overlays of the scenic overlays.

Mr. Watson replied that's all on the existing set of plans, there's plenty of overlays on there and they've largely avoided them. They've avoided the scenic protection overlay that's 250 off the road, and avoided the steep slopes. If you look at the plan that has the steep slopes highlighted in yellow and they'll see they're largely off of them or they're taking advantage of an existing road or something like that so but so they do exist in the plan set.

Mr. Galler stated that what would be a great help is they have this document that's a thousand some odd pages, if the applicant could tell the Board what page a particular plan was on and then they can zoom to it.

Mr. Watson stated that there's actually a full set of plans that are one of the appendices but he'll get that info to them.

Mr. Repetto asked if there has been any thought or discussion about the type of structures that would be built here? Would the applicant consider green roofs and solar panels and trying to make some type of sustainable residencies at all?

Mr. McCallum replied yes, that's absolutely a priority and none of the buildings have gone into schematic design but their environmental goals are absolutely aligned with the Conservation Boards'. The architecture firm that they've engaged to design the theater is a firm called Studio Gang who have made sustainability and green building a real core value in their architecture practice.

Mr. Repetto stated that it would just be great to showcase that in such a public space like this.

Mr. Hollis stated that they can share a plan that shows that they're avoiding the protected ridge line.

Mr. Watson stated that this one other than the roads which you have to cross to get into the property there is no incursion into that scenic protection overlay that doesn't already exist. They already changed the location of the artists housing areas to the north it was in the northeast corner. Originally it was closer to the road and it was going to make an incursion into the protected overlay zone. That's not going to happen. Some of that housing was split and moved to the west side. There's nothing else other than the existing parking and maintenance facility that's been there forever and that's hidden by the aqueduct wall so they are going to use that for a septic area, that is existing parking area that they're going to utilize.

Mr. Galler asked if the theatre for events is that a permanent building or is it more like what was done at Boscobel, a high-tech tent?

Mr. Watson replied that the tent structure is still a tent but it's not going to come down every year.

Mr. McCallum stated that it's a permanent tensile structure so unlike the current tent at Boscobel it won't have to go up and come down every year which has its own huge environmental benefit and they don't have to have a big crane out there and put it up and take it down every year and store it.

Mr. Galler asked if there has been an assessment of how it might impact the view shed?

Ms. McKinnon replied yes, they have done a very extensive view shed analysis through the Planning Board commission and that's included in the EAF documentation. They went through this with the Planning Board on where they should be looking at the site from and taking views in and out of the site so they've been working on that and actually are submitting an amended version.

Mr. Galler asked if they can tell the Board where within the report, they should be looking at that? He also asked Mr. Watson if the tent is going to be considered a permanent structure or a temporary structure?

Mr. Watson replied that it's going to be up there on a permanent basis, it's not going to be taken down. He also wanted to mention that they do have a ridge line and it's an important ridge line and they're being very careful of the ridge line but it's not a protected ridgeline.

Mr. Galler asked what do they mean by a protected ridgeline?

Mr. Watson replied that there's a map that identifies the protected ridgelines in the town and they are very specific, they were mapped and this is not among them.

Chari Galezo stated that he for one has a little better handle on what's going to happen and is interested to look at some of those maps more closely. Obviously, there's a lot been said in the papers and everything else about what's going to happen so it's it'll be interesting to see what the maps actually show and how this whole thing proceeds in the meetings upcoming.

Jan Baker stated that he doesn't need the entire submission in hard copy but thinks there's enough here that the board is going to be looking at on a recurring basis through this process that it would be helpful to have the key maps, charts, visuals, etc. in hard copy in a manageable format that they can easily reference and locate because sometimes it's sometimes helpful to be able to see it in hard copy as well. He added that he would suggest that the professionals think about what type of executive summary of the entire application could usefully be provided to the Board in an accessible hard copy format that it can come back to in future meetings, site visits, etc.

Andy Galler stated that maps that would help us when we do site visits or where the detail is hard to see looking at a pdf file. Otherwise, electronic submission of everything else would be fine.

Mr. Hollis asked if the Board would reach out to the applicant as to when they would like to see them again or give us a several date possibilities for a site visit?

Chair Galezo stated yes, they'll do a deep dive and we'll rally and figure out when they're going to come take a peek.

#### Approval of minutes

The Board decided to wait until the November meeting to approve the July minutes.

Chair Galezo then asked for a motion to adjourn the meeting. MJ Martin made a motion, Andy Galler seconded the motion. The board voted unanimously to adjourn the meeting.

The meeting adjourned at 9:36 pm

Date Approved: 11/9/21

Respectfully submitted by



Cheryl Rockett

Conservation Board Secretary