

**TOWN OF PHILIPSTOWN CONSERVATION BOARD  
November 9th, 2021 Minutes  
Virtually Via Zoom**

The Conservation Board held its regular meeting on Tuesday November 9th, 2021.

**Present:**

Mark Galezo  
Jan Baker  
Krystal Ford  
Andy Galler  
MJ Martin  
Robert Repetto  
Max Garfinkle (Natural Resources Review Officer)

**Absent:**

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.**

**Approval of Minutes**

Chair Galezo asked for a motion to approve the July minutes. Jan Baker made the motion and Andy Galler seconded the motion. The Board voted unanimously to approve the July minutes. Chair Galezo then asked for a motion to approve the September minutes. Jan Baker made the motion and Andy Galler seconded the motion. The Board voted unanimously to approve the September minutes. Chair Galezo then asked for a motion to approve the October minutes. Jan Baker made the motion and Robert Repetto seconded the motion. The Board voted unanimously to approve the October minutes.

**Old Business**

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

Chair Galezo stated that he wanted to reiterate that he still feels that the pool is a problem regardless if it's a natural pool or not and Mr. Garfinkle actually made a very interesting suggestion to a couple of weeks ago and it was related to eelgrass. They've not touched on the idea of maybe mitigating the river itself and he asked Mr. Garfinkle to elaborate on that eelgrass thought.

Mr. Garfinkle stated that it was just a comment regarding potentially doing some sort of mitigatory plantings or some sort of restoration component in addition to the overall development of the parcel to offset some of the impacts. He then asked if Chair Galezo had a chance to speak with the other members who were able to go to the additional site visit to get some of their feedback as well in regards to what's being proposed.

Mr. Repetto stated that he's focused on this mitigation that's fit for purpose something that based on the potential impact to the area given its current situation. In this case it's a pool it's on a little end of the peninsula there's a lot of water already in the area but they want a pool there. He understands that it's a natural pool in this case the sand biofilter so there won't be chlorine there. At the site visit Mr. Hartford pointed out how clearly the small volume of clean water that's going to go back into the Hudson is not even a drop, not even detectable in regards to how much water is in the Hudson and that's completely understandable. The focus areas of mitigation that he'd like to see is natural plantings to mitigate water flow, the runoff from the property in that area give a corridor for creatures to move around again with the seawall. Obviously, the sea wall is a barrier and that's obviously on the Board's agenda as well. The biggest problem he has with the pool is what happens if it floods so if we have a Hurricane Sandy event and the pool is displaced which obviously is not an impact to the Hudson but the Hudson impacted the pool and maybe put creatures in there, wildlife, fish, all kinds of bacteria from the Hudson, how do they decontaminate it things like that are a concern. He would like a narrative of how they would handle it in a catastrophic situation like that. He thinks he's a little bit more comfortable with the pool than initially if they go to that level of detail.

Mr. Hartford stated that he would be glad to speak to that and thinks it's a fascinating exploration of potential outcomes. The intent for the pool is you know for example if whether it's a flooding event or potentially something goes wrong with the filtering process that it needs to be conventionally would be shocked but they have methodologies in the bio natural pools to bring it back in line and they would basically recultivate the enzymes to make it work. They would never actually use chlorine to shock the pool and yes, the Hudson has issues but we're not talking about three-mile island here. He does not identify the pool as the problem, he identifies the Hudson as the problem for the pool contamination. He added that he's not the pool expert but he did have quite a few conversations with them that they would have a process of restarting the activity of the enzymes to basically have it get back into the natural balance of ecology. He doesn't see that as a catastrophic event and thinks that would be something that would be manageable. He added that he's advising the Wildrick's to keep the pool level high, close to the same height as the finished floor of the house. They had a subsequent conversation after this last meeting of possibly raising another six inches so they're about a foot above the flood height of Hurricane Sandy. If the pool is about that same height chances are that they're most likely going to be okay in foreseeable events. Obviously, climate change is real, sea level rise is real but he doesn't see this as something that won't be manageable in a 100-year flood event.

Mr. Repetto stated that it's inevitable at some point that's it's likely to happen, it's happened in the past so that was his concern, what happens when the fish get washed in there and after a storm we always hear of high bacterial counts and that's going to be going in the pool and they're going to have to decontaminate that pool. They want to make sure they have a process for that.

Mr. Hartford stated that the people who would be in contract to maintain it would be able to bring it back online without chemicals.

MJ Martin stated that she's not as adamantly opposed to the pool as she was before. She went down and had a chance to talk with the Wildrick's and Mr. Hartford in more detail about the pool and how it's designed and it was great to see how that elevation issue is being handled on the site. Her issue and this really does not have anything to do with the Wildrick's it has to do with the fact that they may decide that they want to sell this property at some point and she just wants to make sure that the Board can

put in some sort of assurance that this pool is not going to become a chlorinated pool someday. So, if we're serious about these green, passive house structures and green eco pools being the norm here and we're going to give folks those opportunities to maybe give them a little more latitude because they're building green she wants to make sure that when they move on that the Board has some sort of teeth in how something like a pool at the side of the river would be maintained by a new owner.

Chair Galezo stated that the idea of the deeded maintenance agreement and all that sort of stuff that can be factored that it would not never be a chlorinated pool could be worked into that easy enough.

Ms. Martin stated that she'd like to see that. If that's the case she's not against the pool at this point but she does want to make sure that it maintains the integrity that she knows the Wildrick's want to build into this design. She wants to make sure that the next owner and the next owner after that are held to the same standard and we have a bad reputation in Philipstown for that kind of enforcement.

Mr. Hartford stated that he applauds that because it's also my integrity as well so he really appreciates that:

Jan Baker stated that he couldn't agree more with Ms. Martin and he thinks that's one of the most important things about this project. He really regards it as on the one hand an incredible showplace for Philipstown but that's based on it being done correctly and Ms. Martin's point he thinks is really as important for the future as what they're looking at today and he thinks the maintenance agreement is really the key to it. He added that Chair Galezo circulated a terrific template of the maintenance agreement that Dobbs Ferry uses. Mr. Baker volunteered to mark that up for the Board not with specific reference to the Wildrick house but as a template that the Board could start working off of for this and future projects because getting one-year immediate current approval is really increasingly not going to be the problem for them. It's going to be follow-through, continued compliance by the homeowner while they own it on all these projects and continued compliance should it be sold. As a Board they've been working their way through this little by little and he thinks they're reaching a rough general consensus on the theory of it and just have to fill in the details. He agrees subject to all of these things and has no hesitation about the pool in fact even though he regards himself as a naysayer on anything within the buffer zone he'd like the opportunity to approve a pool for every lot up and down the road if it were built this way with all of these features and remediation which of course isn't going to happen. But he thinks this is an example of how people can do stuff and do it the right way in a responsible way that's good for them and good for the community.

Chair Galezo stated that he thinks they're going down a different road here which is a precedent in itself and he thinks a good one. As he said last meeting the idea that building a passive house is so environmentally beneficial that they have to look at the broader picture. To what degree do they give credence or weight to say the pool over between the wetland and Lane Gate where they were going to do significant remediation between the lake and the wetland. Their focus was strictly on plantings and so on. Whereas this one because of the criteria the lot doesn't permit the other approach just by happenstance Mr. Hartford has created this amazing house which is giving us all these other benefits. So, if that other applicant on Avery Road were to come back in and say they want to put their pool where they wanted it, it's going to be 20 feet from the stream but they're going to convert this house, knock it down to build a passive house here. Does that now entitle them to put a pool 10 feet from the stream?

Mr. Repetto stated that the concept has to be fit for purpose. The mitigations have to be fit for the purpose. In the one case where the pool was going to be placed was within a double buffer area. We asked directly for extensive wetlands plantings and removal of lawn area, and they were accommodating to that because they wanted the pool and that was for the humans and so we had to give something back to the buffer. So, what was right in that case may not be right in every case. In this case we have extensive mitigations here from the home where they're removing fossil fuels other aspects of it. The pool itself is a mitigation because it's cleaner than the Hudson, the water that would run back in there is clean anyway. It is an engineering solution, so it has to be maintained. He thinks every example that comes before the Board has to look at what they're proposing for the individual situation, what they're trying to accomplish, and the mitigation needed based on what's best for that situation. He thinks with that kind of concept it can work for a lot of different properties.

Chair Galezo stated that he doesn't disagree, this is really kind of hyperbolic and he's only throwing it out there as like just the hypothetical to understand how we all feel about it. Mr. Hartford came in he's going to build a passive house no matter what. But you get another client that comes in and says they're not going to do any kind of mitigation but they are building a passive house. Do they get the same just because they have done everything that has been done on this site and they say that there's nothing more that they can really do, they have no place else to put the pool it's got to be 10 feet from the stream like that property on Avery would the Board approve that because those people may see this meeting and turn around and say well all right they're going to convert their house completely to electric and it's going to be net zero.

Mr. Repetto stated in a hypothetical case where instead of it being the Hudson with trillions of gallons they had a small stream running past this pool and lots of wildlife that use that stream and lots of wildlife that come back and forth that's a completely different situation. Here you have a fairly sterile environment it doesn't have any existing corridor because it's been populated for 100 years or whatever how long has been built on this property these properties in this area are mostly extended artificially out into the Hudson here. it's all barrier built up and there's not an easy pass that currently, today wildlife cross through and it's a completely different situation so that's why he means the fit for purpose type of analysis is needed. Again, that would be a different situation so maybe they put a passive house next to a stream but it still doesn't mitigate the fact that they're impacting that stream.

Mr. Galler stated that he's been on what was the Wetland Committee and eventually the Conservation Board for over 25 years he thinks he's only dissented once against the entire committee before but he truly believes they are setting a bad precedent here because on the whole they don't allow a non-mandatory structure or engineering change in a wetland or a wetland buffer unless there's significant mitigation and while he thinks the way the passive house is designed is wonderful they should almost be requiring that on anything that is being built entirely within a flood plain. He added that he knows he's going to lose on this and so be it but in his conscience, he can't vote for this. He thinks they're setting a very bad precedent. He's also is sort of uncomfortable with everybody looking at the Hudson it's like dirty, yes, the Hudson has industry on it but it's one of the most amazing drainages in the world and 10 percent or more of all flora and fauna that exists in the continental United States exists within the Hudson River drainage whether it's been native, introduced or invasive. He concluded that's just his point and if the Board wants to vote for it, he's not going to fight against it but in his conscience, he has to vote against it.

Mr. Repetto stated that he doesn't mean that the Hudson is dirty from the standpoint that it doesn't need mitigation. It obviously isn't going to be as clean as the purified water in the very tiny microscopic pool in comparison to the huge volume of the Hudson. Obviously, when there's sewage discharged into the Hudson during a catastrophic event that's not the norm that's when the towns have to emergency release and that's unfortunate that they don't redesign those systems so that there is no emergency release but that's not where we are today.

Mr. Hartford stated that today he shared with a lot of elected officials the New York State DEC grant program that just made announcements to improve water structure water quality along the Hudson River and improving the way we handle sewage and other deleterious improvements on the Hudson. He is absolutely an advocate for the Hudson River and not one to write it off and he hears Mr. Galler's concerns but what is the difference between a pool or a lawn of grass. There's a natural pool that's non-polluting and non-chemical versus an area of sterile grass. There's no difference but at the same time they have expanded the green roof to improve the habitat on the site, they've changed what was basically a drainage trench to a bioswale to improve both diversity and water quality. These are improvements that came out of this discussion so it's not that this has been one-sided and asking only for the luxury of having a swimming pool. They're trying to improve habitat where there's none, he doesn't see it as a selfish grab and something that's really just putting the Hudson at risk and disparaging it.

Chair Galezo stated that he agrees with Mr. Repetto's premise of the relationship between the pool and a stream and the pool and Hudson obviously each case is different. He personally doesn't see it as a bad thing for all the roof runoff and if the pool overflows into the Hudson. What's coming off that piece of property is cleaner than what he's paddling in but it's our job to protect every bit of it and we should be trying to make sure that nothing but clean water goes in there. He added that his personal feeling is that the pool is not going to impact the river. His problem is their position on the board with this precedent. He added if the Board members are all okay with the precedent and maybe they make it clear in the approvals and be very specific with and list them all out the things that they feel have been offered up as mitigations from the natural from the swells and so on to the passive house and all the details and it should be written in to their approval so that somebody comes in later on and looks at it they're not just going to say well you let him put a pool 10 feet from the river why can't they put a pool over here. Here you go just read the minutes and you'll understand stand better.

Mr. Garfinkle asked does the Board feel like they completely understand what those mitigations are and what's currently proposed about what they're proposing against the plans they've provided? They've these discussions but he thinks that could be clarified.

Ms. Martin stated that would be great, she thinks that would be very helpful to have them enumerated again.

Chair Galezo stated how about we don't do that in this discussion but we ask Mr. Hartford to just make a list because there is a lot on the agenda.

Jason Angell stated as a relatively new Conservation Board participant from that October discussion what he walked away with was this discussion about what a mitigation is defined as by the Conservation Board and whether or not a mitigation can be defined more broadly for a number of things that we all know are critical to improve the environment. Without going into it here it sounds like what Chair

Galezo is saying is there's a reason to list all of those various mitigations with this decision because it expands the types of mitigations that the Conservation Board is using to make decisions and it increases the tools in the toolbox to encourage new developments to use some of these things that go beyond plantings but that are incredibly important for our environmental future. That was his big takeaway from the October meeting that this is an incredibly important discussion for the role of the Conservation Board in terms of expanding the tools that it has.

Krystal Ford stated that for her if we leave things better than what they were before to her that's the most important thing. Either keep it neutral or do better. She definitely doesn't want to set any precedent that people can just build pools in the buffer. It's important for the Board to list out these are the reasons exactly why they're approving this and she wants to see how they can keep track of all of these things that they approve so they can check up to make sure that it is in fact what was approved. That's a discussion for another time.

Mr. Repetto stated that he wants to get away from this concept of anything they do sets a precedent because he thinks what they have to look at is what's put in front of them given the situation that's at hand and there's tangible damage that can occur based on certain designs in certain areas and less damage that can occur in other situations. Unfortunately, they have to weigh that and it's not going to be perfect or 100% but that's the reality of the situation. No one on this board would even want a house built there if we could have the whole area would not be buildable anymore but that's not the situation, there's town laws and other Boards involved. How do they make it neutral or better and given the circumstances they just have to look at whatever situation in front of them whether it's the Hudson River with a trillion gallons or a small little stream that trickles every spring, completely different situation and different impact.

Chair Galezo asked are they being asked to issue a permit at this point or approvals or is this this is still preliminary?

Mr. Hartford replied that what they're offering is hopefully a final plan for the Board. They've been responding to questions and trying to get to a resolution here.

Mr. Repetto asked is there something that they're holding up or is there still time so the Board could kind of get a letter back from the applicant?

Mr. Hartford replied that they're concurrently in front of the Planning Board as well. They've got zoning approval. They're close to hopefully getting done here. He added that he wanted to introduce Ms. Sleicher who's from Race engineering who's designing the seawall.

Chair Galezo asked if anybody is very curious about that part of the discussion?

Ms. Martin stated that it's the same that they've already got on the side, the construction is essentially going to be similar to that?

Ms. Sleicher stated that's correct, they're replacing the deteriorated Gabion wall with precast concrete blocks similar to what's on 30 Hudson River Lane.

Mr. Hartford stated that there was a question previously about the process in building it since they'll have the sheet piling temporary wall in place, is it possible or preferable to do the work from the water versus doing the work from the land can you speak to that that?

Ms. Sleicher stated that it's certainly from a construction efficiency standpoint better to do it from the land. Bringing in materials and equipment and doing work from the water is certainly more difficult to do and expensive so it's not ideal. She wouldn't want to preclude one way it's a tight area to get up and down the street depending on where the blocks are coming from they may want to barge them in and do that work from a barge. It's generally more expensive and less efficient so she thinks the preference for any contractor and certainly from her perspective as an engineer with a lot of experience doing waterfront work that if the timing is right to do the wall prior while the houses are down and prior to the construction of the new foundations and so forth that it would be best to do the walls by land.

Mr. Hartford asked Ms. Sleicher if she can speak to the ideas of restorative planting say eelgrass and things as part of the seawall work.

Ms. Sleicher stated that it's nothing that Race in particular has considered thus far. It hasn't been something required or requested by DEC or the Army Corps, certainly something that they can look at. That kind of vegetation as you all know and Mr. Garfinkle knows there's certain types of vegetation that grow in certain areas and elevations. They'd have to look at what would be viable perhaps the area of the beach that's between the two properties perhaps some something could be planted there. Eelgrass is typically something that is under water most of the time so again if they have the right conditions just offshore of the new wall or in that area between the walls on the little cove it's something that certainly could be considered.

Mr. Repetto asked what would that benefit be to do that?

Mr. Garfinkle stated that it was more of an idea just to look at improving aquatic habitat outside of the upland areas that they're manipulating. Eel grass is a species of vegetation submerged aquatic vegetation that's been in decline that provides habitat for certain aquatic organisms and also can filter river water or seawater so there's some benefits there and there's been a lot of conservation initiatives to replant areas where it's gotten removed in the past due to due to water quality degradation. It's more of a concept or an idea in terms of looking at the project as a whole and looking again looking at those mitigatory measures that we're talking about, is it something that is completely necessary? He doesn't know that's why he wants the Board to be able to look at and evaluate what has been discussed over the last few meetings and compare it to what's being proposed on the site. In terms of voting on an application tonight he doesn't think they are there yet. He added that he doesn't want to jump the gun, the Planning Board's still involved so the SEQRA process is still open. They wouldn't be able to issue a permit or give them a conditional approval until the Planning Board makes their determination of significance on the project. There's a lot that's been discussed and it needs to be laid out in those final plans. He added that they still are lacking a construction narrative looking at the environmental protections that will be in place during construction he thinks that's a huge portion of this project. What's being proposed to make sure that the site is segregated from the regulated resource during construction and then once the site's stabilized so a lot of those things they still need before the Board can issue a permit.

Mr. Hartford asked so you're requesting a mitigation plan and stormwater protection plan for the site?

Mr. Garfinkle replied, yes and even a general construction narrative, where they're placing silt fence if it's going to be required, where they're going to put in their (inaudible), where they're going to all those things, turbidity curtains. From a bird's eye perspective on all phases of the project if they can lay that

out in a plan that is really he thinks what the Board requires to evaluate the overall impact on the site plus everything that we've discussed in the meetings in terms of mitigation and so that the Board can see you have this green development project, it's going to provide all of these benefits plus the swale, plus the plantings, all in one place so that they can evaluate and look at okay now they're comfortable with XYZ components of the project because all of this now is on record as being done.

Mr. Hartford replied that they'll glad too and he think that's it that's a great point. Another thing that he doesn't want to forget which will certainly be in the narrative is bird safe glass. Another benefit that has come out of this discussion that wasn't part of their plan before they started talking about the pool so that's a mitigation factor that may not be about water but that's a certainly an improvement on the overall site.

Mr. Garfinkle agreed and added that those are all points that should be highlighted for the Board.

**Surprise Lake Camp, 382 Lake Surprise Road, Cold Spring, NY 10516 TM#27.-1-1.1 WL#19-318**

Mr. Garfinkle stated if the Board can recall they had stopped work on this project maybe over a year due to a fact that they were not in compliance with the stormwater infrastructure they were installing on their property. At that point they were talking about looking at requiring having them obtain DEC permits to establish a stream crossing that the Board felt would work for an environmentally sensitive area. He added that they had gotten approvals to do stormwater improvements in that area and then had one of their contractors divert away from what was permitted in their plans. In one of his inspections, he noticed that they weren't following what was submitted to the town and then Mr. Gainer and Mr. Garfinkle came back out talked to Rich Williams and were trying to bring the applicant back into compliance after they violated.

Rich Williams from Insite Engineering stated that Surprise Lake Camp is an over 400-acre piece of property in the northwest portion of the town and they had come before the Board through 2017 separate improvements which were permitted as a single project. When they came before the Board in circa 2018 they had sought to widen the lower access road and create a turnaround at the end of it to allow for deliveries, drop-offs, pickups and also camper drop off and pick up, That was all done with the intent of improving the lakeside portion of the main camp building for safety, environmental improvements as well as improve the aesthetics of the camp. What happens now is the main pedestrian area for the campers, their walkway to the dining hall, to the main camp facilities, to the library, to the main offices coincides with the main parking lot which all sits right here. In 2018 what they had done was again widen this lower access road and create a turnaround to divert all the local deliveries that come into the camp property as well as to be able to do camper drop off and pick up at the beginning and end of each session. They'd also separated out a visitor parking area. What they could create and here right the main entrance to the camp building was a more pedestrian centric area to create safety for campers. At the time the only permit needed from the Board was for the improvements along lakeside. These improvements consisted of adding stepped seating along the existing eroding slope to help stabilize the slope but to also create an amphitheater effect for the campers to collect in the morning and congregate. This had slight wetland disturbance in this portion of the property and as mitigation for that they had done a series of plantings and seeding mixes along the lake, they'd also done stormwater improvements here for the change in impervious surface, created other stormwater improvements and other discharge points as well as other mitigation plantings in this area as well. They've begun construction of this lower access road and that is going to now bring him to the plan that



was submitted to the Board in beginning, the widening of the lower access road and that construction was completed the contractor instead of piping the storm water down to this existing pipe rerouted it and pipe directly into a watercourse that flows here. This is also an existing access drive trail that gets to the tennis courts on the other side of the stream. Mr. Garfinkle was correct once he did his inspection and saw the wetland violation and they had their stop work order issued they worked with Mr. Garfinkle and Mr. Gainer to create a series of improvements to help stabilize and improve this area as a whole. Not just take the storm water and discharge it to this portion of the property. They're going to be adding a water bar at the top of this access drive to help prevent water from creating further erosion. There was an existing eroded gully here that's going to get filled in that had been present. There was an existing driveway culvert crossing that's going to remain but they're going to stabilize that existing swale or ditch that it had continued to erode and there were a series of pipes that created the existing trail crossing that had been washed out numerous times and been replaced and they're going to be replacing that with an open arch system so as to not have any disturbance to the actual stream bed and to re-establish an actual stream bed. They were before the Board for this stop work order in the summer of 2019, they had three or four meetings with this Board. He thinks it was June, July, August. They may have done their initial submission in May and their last meeting before was in October of 2019 at which point this Board was finally satisfied with this plan and it was incumbent on the applicant to go to the New York State DEC to get the stream disturbance permit for this crossing. What they had said at that time was depending on how fast they get that permit they would be able to work with Mr. Garfinkle and just get started or if a significant amount of time passes, they should just come back and remind the Board of what's transpired, let them know that they're ready to start work and come and tell them that they have the DEC permit. That's what they're here to do tonight, it took longer than they would have hoped. They finally have the DEC sign off, they've agreed as part of the stream disturbance permit to their Timber Rattlesnake education and encounter plan to make sure that they don't impact the Timber Rattlesnake which this camp is very familiar with dealing with and they also had their timber rattlesnake monitors on site for the lower access road. Their goal tonight is just to remind the Board of this plan and hopefully the Board will let Mr. Garfinkle continue to work with them to finally get these improvements finished.

Chair Galezo stated that he doesn't remember all the details of what they thought was a good idea. It seems to represent everything they talked about in essence whatever you call that element at the top of the road which stops water from running down the top of that road all the way down where they put the pipe that sounds like a great thing. Weren't we discussing what was going to happen at the point where the triangle is, where that rip-rap pile is in the center. There are two pipes that run down over that old existing swale to the north, there was something about how that was going to be treated because it would run out there would run along that existing swale and eventually go under the existing culvert that goes back into the riprap that runs down to the what's going to be the bridge. Is that correct?

Mr. Williams stated that this is the last plan that the Board did see and sign off on and to Chair Galezo's point we had spent some time talking about this area and the way the water works is it discharges from these pipes. They have the discharge point here which will flow up page. They had talked about this at a couple of meetings and the result of that was to construct a swale that's moving from left page to right page. Within that swale they'll be constructing stone check dams which are permanent and that's going to help slow that flow of water down and help promote infiltration. They're going to add end sections to

the end of this existing pipe that goes under this access road and then from here down the direction of the time was to stabilize this existing channel because it is steep and it is continually eroding with riprap. Which is all still part of the plan.

Chair Galezo asked so there's no stream diversion necessary or what's going to be done to prevent sedimentation while the footings are poured? Is this a monolithic concrete thing that's dropped in place or poured.

Mr. Williams replied footings will be poured in place, they've purposefully set them back. They do have notes that discuss this and had to detail it for New York state DEC or they're going to sand bag and create a coffer dam along the stream channel. They're going to then work back in the embankment get their footings poured and then they can set the bridge and work. They'll also be adding a turbidity curtain at the end of this eroded channel just to help protect it while they're stabilizing it.

Mr. Garfinkle asked Mr. Williams to can bring them up to speed on if they had any discussions about restoration plantings at the area where they are talking about putting in the stone check dams. He vaguely recalls but everything else sounds great.

Mr. Williams stated that they didn't talk about planting things down where they encounter the stream. It's essentially an almost vertical ditch that's cut into the ground just from erosion and is essentially an item four rock and gravel situation that just keeps washing into the stream

Chair Galezo noted that he thinks what Mr. Garfinkle was referring to is along the swale that they're going to build where they said there's a series of permanent stones.

Mr. Garfinkle agreed and added that the other piece was to make sure that the maintenance staff understands completely what's necessary to make sure all the stormwater features are functioning correctly and including that ultimately in some sort of a document they can hand to them to make sure they know this is the time of year they should be mowing if it's necessary or removing sediment at this rate so that it makes sense to the maintenance staff. He thinks that there was some confusion from some folks when they had met on site to make sure that everybody was up to speed in that capacity too.

Mr. Williams stated that on the swale they had landed and it's shown on the drawings using one of the Ernst seed mixes the native steep slopes mix was the mix that they had reviewed at the time and that's still part of the drawing. On the maintenance agreement they're actually going to have to file a maintenance agreement with the Town of Philipstown because they exceeded the thresholds for post-construction stormwater control under the DEC species general permit. So, he thinks ultimately by the time they're done with this there'll be a maintenance agreement that gets filed with the town in order to close their coverage under the Notice of Intent.

Mr. Garfinkle agreed but added what they had requested was that when that is developed it's not just solely reviewed by Mr. Gainer but also by the staff at the camp so that they can actually facilitate it correctly.

Mr. Williams added that Mr. Grosshandler and Ms. Kirschenbaum are here and they are the two people at the camp that would be responsible for doing that.

Mr. Garfinkle stated that there's no open wetlands permit essentially for this portion of the project. He'll draft one and then he doesn't see an issue with the Board voting to lift the stop work order and approve a permit to put the crossing in.

Krystal Ford asked wasn't there also a thing about a bunch of trees being cut down on this property?

Chair Galezo stated that was the road that was cut up through the woods. Whatever happened with that?

Mr. Garfinkle stated that he believes that Bradley had been talking with their biologists in regards to risk with the restoration of some of those cut areas but other than that there haven't been any updates. In all fairness this is a separate project and issue. It's up to this Board to evaluate whether they feel like it's been fully rectified or if they would like him to look back into that before they allow them to continue any other work on the on the property.

Chair Galezo stated that's a good question for everybody, he doesn't know how many of the Board walked that road that they cut but it was a disaster, it was like somebody ran a bulldozer through the middle of the woods up and down steep slopes there was mud everywhere, big mature trees destroyed and through wetlands. Should we at least know that something has been done or is underway or has been agreed to be done.

Mr. Grosshandler stated that he's one of the Board members for Surprise Lake and a volunteer for the organization and if they're talking about the area he thinks it's up by behind unit h or highlands where there had been some tree removal that has been done there was an arborist that had come in and made some recommendations on plantings. He believes there was some plantings that were restored before that tree removal company was allowed to leave the site. He can confirm that is in fact the case he wasn't at the time part of the discussion, he heard about it after the fact but he does understand or believe that a series of trees were planted in replacement of whatever had been taken down.

Chair Galezo stated that based on Mr. Grosshandler's response he probably did not walk that because he would not be taking it as lightly as it sounds. It wasn't just a few trees removed, literally looked like a bulldozer was driven through the woods a half a mile at least.

Mr. Galler stated yes, they had a Feller Buncher which is major commercial harvesting. They were in there with a few foresters from DEC because he believes the state holds the conservation easement on that section of the property. He thinks that they need to hear from where the DEC is right now with what was done to the property or not to correct. The Board needs to know that some type of remediation was done because it was it was horrific what was there.

Ms. Ford stated that also been two years so she really wants to see what's been put in place.

Ms. Kirschenbaum asked if the two things really related. She'd like to respectfully ask that they look at them as two separate issues because they do have approval from the DEC who said they did what they needed to down below. They all want to do the right thing, she hears what the Board is saying and wants to look into it further but she can assure the Board that some of the people involved in the decisions that had this occur are no longer at Surprise Lake Camp. She wanted to ask the Board to consider that because in order to move forward for 2022 for the kids she would like to fix that area down there and she respects whatever the decision is.

Mr. Galezo stated that he appreciates your position and they should move expeditiously to find out exactly what's been done and let's not drag this thing on and he would say they often do a conditional permit where they all give their approval at this point. Based on the findings of Mr. Garfinkle and whoever the appropriate people are to see what's going on. As long as something has been done something has been decided on and there is progress but he can't in my heart say just go ahead and keep going with whatever projects they want if they are ignoring such a disaster on the adjacent property something that was caused by a prior person who thankfully is no longer there.

Mr. Williams stated that's a very fair point and position and if the Board would be willing to do something conditional the one other piece of the puzzle just to factor into this is one of the things the DEC made us pay attention to is the Timber Rattlesnake and the ideal time to get this work completed is prior to April 1st when the Timber Rattlesnakes are hibernating.

Mr. Garfinkle stated that if they can provide a report to bring the Board up to speed, what's transpired over the last two years with parks and the discussions they've had without the town essentially in regards to the timber harvesting that happened and what was done to rectify it he thinks that would be very helpful to just inform the Board and bring us up to speed on that. He added that he knows discussions have occurred without the town and that that's fine but he thinks being brought up to speed at this point they can move forward in his opinion and then they can make an evaluation at that point.

Mr. Repetto stated that he'd like to really hear what the mitigations were and what the result was. He appreciates getting it done before the rattlesnake season hibernation is an issue. If you can get a quick update of all the mitigations that were done and then come back to us in December, they can take care of it in December and they still have enough time to deal with it. He really thinks that they need to have a pretty more comprehensive understanding of how that was remediated.

Ms. Martin asked if it make sense for the Board to get eyes on it.

Mr. Williams stated that not to downplay anyone's concerns but as he starts to hear site walks, come back next month, he's been down this road and knows where this goes. They'll be before this Board for several months is his concern and while that may be fair given the history the one thing he would ask is there a way to condition them being able to continue with this portion while they're still before this Board. If the Board's not satisfied with the remediation because they do a site walk and there's additional asks and they come back and address them and they have additional comments and now they're into January. He's not looking to walk away but he's looking for to work together.

Chair Galezo stated that he thinks it's in the Boards best interest to say no honestly.

Mr. Grosshandler stated that he's hearing from the different contractors that now is the right time to do this work and that the further they get into winter the harder it becomes to execute it properly. If it helps please the Board any he's been involved with the camp since 1985. He can tell them firsthand that they're committed to doing the right thing and if that means whether it's a walk-through or he's happy to come meet the Board or Mr. Garfinkle or whatever it is. If there's something that needs to be done they'll make sure that it gets addressed and if it helps the Board at least to contemplate some sort of conditional approval the work that they still have yet to do on lakeside with the stepped hillside there and some of that work along the lake's edge has yet to be done. Perhaps they Board could conditional that work, the stream crossing, let's get all this stuff in and done so that they're protected from the

winter, they're protecting further erosion and so on but if the Board wants to condition anything conditioning them from proceeding with the bigger part of the projects until after this Board's been satisfied.

Mr. Repetto replied with all due respect this Board's been meeting virtually, they had one face-to-face meeting in July. The applicant could have come back at any time prior. This has been going on for a really long time. Their predecessors said and made exact same promises only to come to the next meeting right after that bulldozer went up the hill so in his opinion, he just needs to understand a little bit more about what's going on with that mitigation and he appreciates they want to get the work done, the Board wants that work done as well. It's going to be an improvement but they've had some history here and he thinks they just really want to see some changes. They've got some new management here so let's just take a month come back in December come armed with the proper information and it should be completed in December.

Chair Galezo stated that if Board members can get out there in the next several days and it looks like preventive measures were put in place way back when the issue first arose so that those raw mud slopes have not been just washing down into that wetland for the past two years it shows that they had good intent and at least tried but the Board is just completely in the dark at this point.

Ms. Kirschenbaum stated that she lives part-time up at camp and on Horton Road in town and she can meet anyone at any point in time. Mr. Williams and Mr. Grosshandler will tell you they want to do the right thing, she is sorry her predecessor strung things along, she cannot account for that. She loves the camp and they want to move forward for the kids and the community and the wetlands and do the right thing because they are stewards of the land and they respect it and are happy to do whatever needed to move this forward because she really needs to move it forward and she thanks the Board for any consideration they can give.

Chair Galezo stated that they will be in touch and get out there as quick as they can

**Ralph Koos, 80 Justin's Way, Garrison, NY 10524 TM# 49.-4-51.14 (Site Visit 5/27)**

Max Garfinkle stated the they issued a permit for them to access the proposed buildable area was as well as the proposed septic area so they can dig test holes to give a full site plan instead of just a plan for a driveway access that would go through a regulated wetland on the property that they would need to fill a small portion of. He believes that there's a mitigation plan attached to that the filling of that area to offset that impact and he thinks the Board was more comfortable looking at it from a whole perspective where they understood that where the buildable area was going to be and where the proposed septic would be installed as well before just giving driveway access to the property.

Steve Marino stated that back in April they walked the site, he thinks everyone saw that there is an existing traveled way there going up the hill to the development area up at the top of the hill. They had requested permission to finalize that driveway to clear it and grade it and install a culvert pipe under it at the area where the wetland crossing is and at that time it was thought that as Mr. Garfinkle mentioned, let's get the septic testing done, let's get a full site plan for the whole site put together so that we really get a better picture of what's going on in the overall property. Subsequent to that Mr. Garfinkle issued a permit for clearing some of the vegetation in that existing traveled way to allow access for a machine to get up there and do the septic testing. The septic test was completed by Badey

& Watson early in the summer, a septic plan was designed and has been approved by the Putnam County Health Department. The plan that the Board currently has before them that was recently submitted is that plan that shows the driveway through the wetland and buffer as well as a finalized design for the septic system and a location for a potential house further up the slope.

Chair Galezo asked yellow is the steep slopes? And the wetlands, is that where's the little square at?

Mr. Marino stated between 19 and 22 is the portion of the wetland for right and if you've been out there you know that that part of the wetland is already disturbed by the fact that the traveled way is already out there so it's not currently really functioning as wetland. There's a small seep just to the south of the of the traveled way that we did delineate as wetland and that's the part there that essentially gets cut off by the driveway. There's an existing 12 inch and an additional 15-inch pipe will be put in there just to maintain those flows through to the wetlands since they know that's at least one place where there's a point discharge of groundwater to the wetlands. They want to make sure that's maintained.

Chair Galezo asked so what are we looking at for as the Conservation Board, we're looking at the wetlands crossing, it doesn't seem like we're looking at any steep slopes it's just touching upon steep slopes.

Mr. Marino stated yes exactly just to the east of the wetland crossing there's a small area of steep slopes there you can see in the yellow, there's a little bit of grading. If they recall from being on the site that area to the south of the traveled way was cut in kind of sharply, the slope is pretty steep right there. So, the plan really is to just kind of feather that back a little bit to make it not quite so steep. There will be a little bit of grading in that 20% slope there just to reduce the slope a little bit so there wouldn't be erosion problems in the future.

Mr. Marino shared the mitigation plan. The areas in blue there are the areas of the buffer that will be disturbed for the finalizing of the driveway. The area in yellow is the proposed wetland disturbance which is about 1200 square feet. The area in pink is an area they're proposing for buffer and wetland restoration including an invasive species maintenance and monitoring plan. There are details for that plan on this sheet. This sheet was submitted as part of the original application back in April. He didn't resubmit it this time because he knows they all have it in their files. That purplish area to the right just to the east is an area where they're going to just a little bit of cutting back of the existing slope there to intercept some of that shallow surface water, shallow lateral flow through there and replant that as wetland as well. There's a note on the plan that shows the species that they would be using in that area so that's about a two to one impact a two to one mitigation for wetland loss and maybe a one-to-one for wetland and buffer as they go in and do some invasive species removal and restoration. Originally this was looked at back in 2003, 2004 by the Planning Board. There was some discussion about how access to this lot would be provided whether it was viable to get up there. Originally there was a private road entering off the cul-de-sac that went further up the slope. At the Planning Board's request, they narrowed that down to a private driveway rather than a shared road. The driveway was moved further to the south. It originally went through that area in pink and it was moved further to the south just to get the narrowest portion of the wetland they could cross while still not getting up into those steep slopes. If they look back to this drawing they can see just south are the steeper slopes. If they were to look at moving that driveway any further to the south clearly they'd be in the 20 to 35 percent slopes and considering that the driveway is already cut in there and established it seems to them to make

sense just to leave it where it is have that minor wetland impact and with some mitigation on a couple of different fronts and leave the location of the driveway where it is.

Chair Galezo stated that he agrees, he'd certainly like to see some treatment of the water coming down off the driveway at that point as we get down close to the wetland but that's something to be discussed further on in the process. He then asked what are they being asked to do? Is the applicant asking for a thumbs up to this lot and that what they've done is acceptable so far?

Mr. Marino stated that they're looking for feedback from the Board. They met the condition of going out and doing the testing and coming back with a formal site plan. They've provided new information just based on that new site plan to remind the Board of what's been going on, they would like to get the driveway approved at this point as soon as possible make those improvements.

Mr. Garfinkle stated that if the board does approve a permit for this this proposed site plan along with the mitigation plan if the property sold in the future that this is what the Board would be approving. Just to reiterate to the landowner that if changes were to be made to that plan the new owner or the new developer would need to reapply if the site plan would be shifted in the future.

Mr. Marino replied that's absolutely fine. He thinks there's really no alternative to driveway location and they now have an approved septic system at that approved location it certainly wouldn't make sense in his opinion for someone now to go back and try to reinvent that septic system after they've gone through the process of getting it approved by the Health Department. The only thing that might change in the future is the size and footprint of the proposed dwelling. Right now, they're looking at a schematic of a dwelling that would fit on the property at that location. An architect may come in and have some other idea. But generally, the location for the building would be where they're showing it on this plan. That's outside of buffers and steep slopes he doesn't know if they'd come back to the Board.

Chair Galezo stated that it's actually not outside the steep slopes, it's in the yellow the back left corner of the house the southwestern corner.

Mr. Marino stated now he sees that, yes in the southern area there.

Chair Galezo replied he doesn't know how the Board feels about that maybe they should be saying that is the one thing that they're pointing out they disagree with at this point but other than that he doesn't see any issues with it. The way they brought the driveway up does the best they can do. They did not get past the wetlands. He added that he has no idea of the condition of the existing roadway that went all the way up to the house site. He has no idea what it looks like right now.

Mr. Marino stated that he thinks the existing driveway only got them about as far as the edge of the wetland buffer everything beyond that would need to be still cut in at this point.

Andy Galler stated that he's wondering whether there should be a rough flagging of where the driveway would go and the house site unless Mr. Marino wants to move the house slightly north so that it's out of the steep slopes, five feet, ten feet something like that.

Mr. Marino stated that it looks like just kind of simply rotating it a little bit obviously it wants to sit on that knob because that's going to be the best view from up there. Is that something that they need to do now or is that something that when someone finally comes in for a building permit that needs to be kept

in mind so that they're aware that that's that could be an issue and they'd have to come back to the Board if it stays in that location.

Chair Galezo stated that the average builder or homeowner is going to just assume that there was no issue with being into the yellow and they might just try to push it even further into the yellow. It might be good if it's easy enough to redraw the house so it's out of the yellow and maybe make a note that these are steep slopes need to stay out of the steep slopes.

Mr. Repetto wanted to ask more about the septic where the septic was um and that's obviously in the buffer right?

Mr. Marino replied, no, the entire septic and reserve area are both outside of the buffer. Looking at the plan there just to the north you can see that arc that forms that shows the buffer line they're probably 15 to 20 feet south of the buffer with the septic area for the primary and the reserve.

Chair Galezo asked Mr. Garfinkle if he has verified the existence of any other wetlands on this site?

Mr. Garfinkle replied, no he's only looked at what was indicated on the plan.

Chair Galezo stated that he thinks that should be noted also unless they have a third-party verification of what that there are no other wetlands or issues going up that where that road is shown. It might make sense now just to make it easier for the applicant later on to do what Mr. Garfinkle said and then flag it more or less location of the steep slopes and the driveway and let's all walk it and done.

Mr. Galler stated that the piping for the septic is going through what he's guessing is a class 2 steep slope. The tank is in steep slopes, i didn't think that was allowed in town code.

Mr. Marino stated the he doesn't know but he knows that the Health Department has approved it.

Mr. Galler asked what's the closest that a septic tank can be put to a house in Putnam County code?

Chair Galezo stated 10 feet.

Mr. Galler asked why are they then putting a septic tank in a class two slope rather than putting it closer to the house? Wouldn't it almost make more sense to put the septic tank closer to the house out of the steep slopes. and then try to do as much of the piping as possible because it's gravity fed along the driveway so they're not disturbing anything? Yes, the run is a little bit longer but it looks like they certainly have gravity on their side. It's certainly easier to maintain if you have to over time.

Mr. Repetto stated that in other cases where they were very near or in the buffer, they required the peat systems to be installed he knows that the Board of Health has approved them even without that extra in many cases.

Chair Galezo stated that he thinks a regular septic system is a lot less maintenance and they've got it sitting in here they're out of the buffer.

Jason Snyder stated that the septic tank and the dosing tank are in that particular location so as to provide basement sewer service and also maintain a maximum tank depth of 30 inches. They need to be pushed out that far in order to have basement service. That's why it can't be close to the house if the tanks were close to the house they'd be eight feet in the ground.



Chair Galezo stated but if you follow the top of the topo line around that that dark topo line around to where it meets the driveway you're at the same height.

Mr. Snyder stated that he thinks they have a retaining wall here along the along the driveway in order to maintain those slopes and also it's not great to have the sewer line underneath the driveway. They could look at changing it if it's absolutely necessary but generally that's they just come straight out and away from driveways and retaining walls and all that. As far as the location of the house goes the house was positioned before we did the slope analysis. They just tacked on the proposed house onto the end of the driveway and that's where it wound up. The Health Department isn't going to require a revision so if that needs to be done, they can just do it.

Chair Galezo stated that he thinks it's more a matter of what they're giving approval to.

Mr. Snyder stated that Mr. Marino can just scooch it forward and make a note.

Mr. Marino stated that the question about the tank location it's for getting a basement sewer out, that's really a temporary disturbance as well. Once they dig the hole, put the tanks in you set everything up you backfill that slope and it's reseeded and that's not really a permanent structure at the surface that may impact the steep slopes. He's not sure that that's a real concern but if Mr. Snyder can look at the question of possibly moving it somewhere.

Mr. Snyder stated that they're going to have to run the effluent sewer down that slope anyways.

Mr. Snyder stated that they can run it down the driveway along the shoulder, inside curve.

MJ Martin stated that it's not entirely true that you set it and forget it right because these things need to be maintained they need to be pumped so that'll be regularly disturbed.

Chair Galezo stated that it's not like they're going to get a trenching tool in there and be able to dig a surgical little one-foot-wide hole. They're going to be with a machine, knocking trees down they're going to be doing a lot of disturbance on the steep slope. It can be done cleanly with a lot of care but why go through all that trouble as a builder to have to do that.

Mr. Marino stated that he thinks we agree and will look into that for sure.

Mr. Snyder stated that they'll move the tanks and sewer line.

**Arnaud & Santellses, 5 Juniper Hill Road, Garrison, NY 10524 TM#81.-1-11**

Mr. Snyder stated that they're tearing down the existing cottage which is served by an existing drilled well to be abandoned which is outside of the buffer and they have this lawn area with a cesspit. They're proposing to abandon this cesspit in the buffer, reclaim some of this existing lawn area with native wetland shrubs and various reclamation plantings. They're extending the driveway here for a turnaround in front of the house, their extending this parking area here in front of the garage with the steep slopes on it. The house is about 4700 square feet footprint. They wanted to go build out instead of up because they're in the scenic protection overlay. They wanted to mitigate some of the visual impacts so it's just one floor. They have this area here in front of the garage that they need to extend they end of the driveway. They're looking to reclaim with various wetland shrubs for the buffer mitigation which is currently this whole area here is really just open space meadow but this is lawn landscaped area here.

Chair Galezo asked where is the driveway, down at the bottom?

Mr. Snyder stated here's the existing driveway so they're just extending this it's 250 square feet of gravel at the end of the driveway here.

Chair Galezo asked where are you crossing the wetlands buffer, is that arc right at the end of the driveway is the wetlands buffer?

Mr. Snyder replied correct. The wetland is the orange hatching that's all the wetland, that's the wetland buffer.

Chair Galezo asked Mr. Snyder to give them an idea of what is going on then they'll go do their usual site visit, where is the septic proposed?

Mr. Snyder pointed out where the septic is proposed.

Chair Galezo stated this is tight, they've really got this squeezed right in here. He then asked Mr. Garfinkle if he could set up a site visit and they'll get out and take a look. He then asked if the wetlands buffer and the house are flagged.

Mr. Snyder replied that the proposed house, garage and septic system are all staked, the buffer is not staked.

Chair Galezo replied that he thinks it would be a good idea to have the buffer staked just so they will know what they're looking at.

Mr. Snyder replied that the buffer extends right up to the is right on the corner of the existing cottage, there's points along here that that we can reference. He doesn't know that they're going to be able to get a survey crew out there to get all this staked but there's certainly points along this that they can reference. He added that he'll get it staked the best he can.

**Johnson & Rinderman, Mountain Brook Drive, Cold Spring, NY 10516 TM#16.-1-34 & 56**

Mr. Snyder stated that last July the Board gave them permission to go in and build the curtain drain for the septic system. It's at the very end of Mountain Brook Drive.

Chair Galezo stated so this was one where they found a lot of water in the area of the septic and were putting in a drainage pipe to see if they could dry it out sufficiently the results of that were?

Mr. Snyder replied that everything worked out exactly as planned. They retested the area with the Health Department. They designed a septic, the Health Department approved it and so being that was successful now they're back. The wetland buffer is the hatching, 100 feet from this regulated stream and then they have the hundred feet back from the lake and then they have a hundred feet from this and then it extends out this this intermittent stream here. He continued this is an old maintenance road here for the dam so there's already a corridor down here which they want to use in the proposed condition. This is the path that they used and were given permission to use for construction of the (inaudible).

Chair Galezo stated that he recalls the Board asked them to move it slightly. So, is everything flagged, same as the other one? It would be good to see the entire space.

Mr. Snyder stated that he's going to have to park at the end of Mountain Brook and they can go down the Scenic Hudson property, there's an existing travel way that he thinks that's the way they went before.

Max Garfinkle asked if he could just also flag the new access road that would be extremely beneficial.

Mr. Snyder stated that's roughly flagged. This whole way and then once you move down this cul-de-sac here there's a straight run right down to the existing travel way and then it's an existing cleared corridor. the septic, all this is all flagged. There is some clearing that was associated with the construction of the curtain drain but it's all staked. He staked it all out for the Planning Board to see. These are both at the Planning Board for minor site plan approval.

MJ Martin asked about the two pools.

Mr. Snyder replied, yes there's a lap pool that is elevated and connects the two wings of the house and this is more of a lap pool and there's some other elements as a water feature and then this is more of a standard swimming pool he believes. He continued that he can show the Board the renderings at the site meeting.

Mr. Repetto asked what that space is up there where it says it's cantilevered over the wetlands in that corner there?

Mr. Snyder stated there's a green roof over a lot of this house so the footprint of this structure is outside of the buffer but they do have the second floor cantilevered over the buffer and there is a green roof associated with much of this north wing of the of the house.

Chair Galezo stated that what he would say is remember what River Architects did with the other house that whole conversation that is now being looked upon favorably.

### Other Discussion

MJ Martin stated that Mr. Garfinkle had sent a memo to the Planning Board but did they ever get a response from the Planning Board about Hudson Highlands Reserve.

Mr. Garfinkle replied there's no official response in a memo format but in their meeting, he thinks Mr. Gaba was not of the opinion that the Conservation Board had jurisdiction anymore over the projects which he thought they were trying to get around by sending that back out to the Planning Board essentially.

MJ Martin stated that they never had jurisdiction, the Planning Board was the lead agency always on this yeah but it's the first conservation subdivision in the town and when they change the plan we're not seeing it?

Mr. Garfinkle replied, exactly right and he and Mr. Angell spoke about this earlier today and even if this wasn't a conservation subdivision it's still in the open space overlay and would still be a referral to the Conservation Board anyway.

Andy Galler stated that he listened to the Planning Board meeting and he's paraphrasing but Mr. Gaba said something like "well you made a positive declaration under SEQRA where they've come back with changes that appear to satisfy what you want so there's no reason you would have to go to any other boards." Mr. Galler continued that's not his understanding of the SEQRA process whatsoever.

MJ Martin stated it's unbelievable frankly.

Mr. Angell stated if the Board wants him to write saying to Mr. Gaba the Conservation Board is requesting that it come back to them because, one, the importance that it is the first conservation subdivision and two, because it's in the open space overlay and get his response. Is that something you that would be useful. As the first conservation subdivision it's an incredibly important project.

Chair Galezo stated there were a lot of technical issues that were the studies that they were referring to. They kept going back to saying see this study from like 50 years ago is what's driving our designs. There was all this discussion about fragmentation of the forest about the proximity to the pond. They argued about how animals would never go down that steep hill and down to clove creek and it was clear they were utterly wrong and they came back and they supposedly have addressed all those issues. They have not addressed anything in fact the fragmentation is just as bad as it ever was. It looks like a standard subdivision.

Ms. Martin stated that the other issue that's really central to this beyond one and two that Mr. Angell mentioned, the third thing is there have been substantive changes to the plan overall. What the Board originally saw is not what it is today. They've taken out the equestrian center but they've reshuffled where they're putting houses now. They have not removed houses other than the one or two that are around the little pond area and she thinks they have a new egress. It's like it's a new plan that they've never actually seen, it's never been presented to the Conservation Board and it's still being dressed up as a conservation subdivision.

Mr. Angell stated that he wasn't sitting on the Conservation Board when it first came in front i mean obviously it's such a big important project that it i would be in favor of it coming back to the conservation board. Is anybody though willing to draft those three points, he would be happy to send them to Mr. Gaba these are the reasons why they think the project should come back to the Conservation Board just as an extra nudge.

Chair Galezo stated that when they first introduced the idea of what a conservation subdivision was the example and they show where they've clustered everything towards the road, they protected the sides they brought the whole back was left all while they had pads coming through to show how they were connecting with letting the wildlife come through, allowing trails to continue through and everything was clustered at the front and that was the concept. When you put that next to this there's no relevance, it's not even close to the just the general idea and never mind when you get down to the specifics.

MJ Martin stated we had these conversations when they came before them and they said they are jumping through loophole after loophole in this and we know you're doing that. it was it was obvious and it's blatantly not the spirit of the of the code.

Chair Galezo stated that he thinks between all of them they can write down the high points but the idea that it wouldn't come back to the CB because they've already commented. Just because they commented it didn't mean they signed off on it. They commented now it's the applicant's job to change the plan to address the comments. Does Mr. Gaba work for the town?

Mr. Galler stated that Mr. Gaba works for the town, he's the town attorney under contract not an employee. He continued that where he's uncomfortable is he doesn't believe it is Mr. Gaba's position to be a gatekeeper. It is his position to advise somebody if they shouldn't be involved because there's

something inappropriate but he shouldn't be a gatekeeper and Mr. Galler questioned did we even distribute the last comments they put together in the last whatever it was four, six weeks? Did it go to Mr. Gaba or just go to the Planning Board.

MJ Martin stated that Katrina Shindledecker of the Hudson Highlands Land Trust recently wrote a new news memo.

Chair Galezo stated if all they do is jump on that on the back of that and say this says everything we're trying to say in the most scientific succinct terms. They don't need to add anything to it, they just all sign up that letter and send it back to send it to whoever they need to send it to.

Mr. Angell stated to Mr. Galler's point the town counsel should not be the gatekeeper. In the normal sense would the Conservation Board request of the Planning Board that this project come back to them what is supposed to be the chain of command?

Chair Galezo stated that the Planning Board normally decides whether they need to send it to us. but Mr. Gaba can advise them on legalese whether or not there's they should be doing it.

Mr. Galler stated that Chair Zuckerman brought it up that they have comments from the Conservation Board and Mr. Gaba just shut it down and a SEQRA is an ongoing process particularly when a positive declaration is made.

Jan Baker stated that he finds what Mr. Gaba did bizarre and inappropriate frankly.

Mr. Angell asked if the main question is such an important project as there have been substantive changes to the plan since the Conservation Board saw it related to housing location and egress. It's the first conservation subdivision which is incredibly important should they send this to Mr. Gaba and Chair Zuckerman, cc'ing Chair Galezo saying that the Conservation Board for these reasons believes this project should come back to them, what's the way forward is that the way to go here?

Chair Galezo asked if they have had to issue a permit on this project for any part of it?

Mr. Galler replied ultimately a wetlands permit possibly.

MJ Martin stated remember if the Planning Board is lead agency they can issue those permits without consulting the Conservation Board. They used to want to always have the CB involved and get their input which is why she's kind of puzzled by the reaction.

Chair Galezo stated but wait that was when we were CAC, an advisory council, when we became a board weren't we given the ultimate permitting authority of anything that was under our jurisdiction?

Ms. Martin stated that she thinks when it's a subdivision like this they have a lead agency and they can do it, that needs to be checked but she does think that they get that power if they're the lead agency. The Town Board can be lead agency on a subdivision of this size and nature. They could take it from the Planning Board and then call in whoever they want.

Mr. Garfinkle stated ultimately, they'll issue a permit but the Planning Board may be able to set the conditions of that permit, like for the cell tower for example that was recently approved a couple of years ago. They appealed the CB's decision went to the Town Board and they went into litigation with

them and then eventually The CB ended up issuing a wetlands permit based on the results of the back and forth between the Town Board and their legal counsel

MJ Martin asked but our power was overridden right as a conservation board eventually

Mr. Garfinkle replied eventually he thinks that was due to the fact that they appealed their decision and then the Town Board took jurisdiction at that point. Ultimately if they needed to issue permits, they would have to even if a SEQRA determination was provided they would need to come back for permits from the CB. If they appealed the decision to provide them a permit then the Town Board would take jurisdiction and look at why the CB decided to deny the permits. That's the way that the code reads ultimately if the CB denies a permit they can appeal and the Town Board becomes the deciding board and they have to present to the Town Board.

Mr. Garfinkle stated that he doesn't know if it's appropriate for, Mr. Galezo, Mr. Angell, Mr. Gainer and Mr. Garfinkle and whoever else wants to be involved to have a conference call with Mr. Gaba to just understand why his perspective was the way it was.

MJ Martin stated that Chair Zuckerman needs to be on that call.

Mr. Angell asked should they just put together some clarifying questions, the Conservation Board expressed that they'd like to see this project come back for these reasons, they believe there's going to be a wetlands permit needed and that it will have to come back to them. He could send a draft of that very brief clarifying email before he sends it out and they'll just start with some clarifying questions before going forward from there.

Mr. Galler asked if Mr. Angell saw the memo that they had put together because it lays out that and from the Hudson Highlands Land Trust because they're very much in parallel.

Mr. Angell stated he'll just draft a very brief email and before he sends it out to anybody outside the Conservation Board he'll send it for feedback and then we'll go forward from there.

Mr. Repetto stated that he's going to send a reference out that he found that talks about that if there's a there's no penalty for failing to identify an involved agency meaning like that where we should be involved even though they're the lead agency but it says that they could then petition grounds to nullify whatever decisions they make as well so we have some avenues here as well to go back.

Ms. Martin stated that she hopes it doesn't come to that.

Mr. Garfinkle stated that he doesn't know if they all read Mr. Gaba's memo in regards to Hudson Valley Shakespeare Festival. The Conservation Board does have jurisdiction over land use changes on that project so they spoke briefly about that memo and it wasn't corrected. Mr. Garfinkle will respond back with a memo from this Board saying that obviously wetland permits will be required for the Snake Hill Road access to the property itself and the change that they're proposing there. In Steve Gaba's memo he stated back to the Board made it sound like the CB wasn't going to require permitting which their consultants have obviously stated that they're aware that it will be required as well so that would be the next step there for that project.

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

The meeting adjourned at 9:43 pm

Date Approved:   
Respectfully Submitted by

Cheryl Rockett  
Conservation Board Secretary