

**CONSERVATION BOARD  
107 Glenclyffe Dr., Garrison, NY 10524**

**November 12, 2019 7:30 PM**

**MEETING AGENDA**

**1) Approval of Minutes:**

- September 10, 2019
- October 8, 2019

**2) Old Business (all old business pending):**

**Thomas & Janet Wahlman, 28 Justin's Way                      TM# 49.-4-51.11                      WL 19-319**

(The applicants are seeking approval for the construction of a single-family residence, detached garage, driveway, septic & well. The construction involves the following work within the watercourse buffer: appr. 12 feet of a 12' wide gravel driveway, construction of 896 square foot detached garage & associated footing drain, an approximate 65 square foot portion of the house, grading and drainage associated with diversion of "off-site" drainage, the proposed reserve septic area, and construction of the drilled well and water service line.)

**3) Stormwater:**

**4) Other Discussion:**

**\*\*\*NOTE: All items may not be called. Items may not always be called in order \*\*\***

**\*\*\*BEGINNING OCTOBER 1, 2019 ALL SCHEDULED CONSERVATION BOARD  
MEETINGS WILL BE HELD AT THE CLAUDIO MARZOLLO COMMUNITY  
CENTER, 107 GLENCLYFFE DRIVE, GARRISON, NY 10524\*\*\***

**TOWN OF PHILIPSTOWN CONSERVATION BOARD**  
**238 MAIN STREET, COLD SPRING, NY 10516**  
**September 10, 2019**  
**MINUTES**

The Conservation Board held its regular meeting at Philipstown Town Hall on Tuesday, September 10, 2019.

Present: Mark Galezo, Chairman  
MJ Martin  
Andrew Galler  
Lew Kingsley  
Krystal Ford  
Jan Baker  
Robert Repetto  
Max Garfinkle (Natural Resources Review Officer)

Absent: Anthony Deos (Alternate)

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

Chairman Galezo opened the meeting at 7:30 pm.

**Minutes**

The minutes of July 2, 2019 Regular Monthly Meeting were reviewed. Mr. Galler moved to approve the minutes as presented and Mr. Baker seconded the motion. The vote was as follows:

Mark Galezo	-	Aye
Robert Repetto	-	Aye
Andrew Galler	-	Aye
Jan Baker	-	Aye
Lew Kingsley	-	Aye
MJ Martin	-	Abstain
Krystal Ford	-	Absent
Anthony Deos	-	Absent

**Old Business**

**Thoman & Janet Wahlman, 28 Justin's Way**

**TM# 49.-4-51.11**

**WL 19-319**

Jason Snyder of Badey & Watson was in attendance along with the applicants, Tom & Janet Wahlman. Mr. Snyder explained he was unsure what plan the board had last seen. He believes it was likely an earlier rendition which showed the house in essentially a mirrored location from where it is today. In order to get more of the driveway and the driveway grading out of the

buffer, they mirrored it which helped reduce the impacts to the buffer. He stated they got a new topo because the old one did not accurately reflect the site conditions. Mr. Snyder stated they reduced the size of the septic and decreased the amount of disturbance that they had shown before.

\*MJ Martin arrived to the meeting at this time. (7:33pm)

Chairman Galezo questioned if the previous plan showed the driveway crossing the stream. Mr. Snyder explained it had but that stream crossing has now been eliminated. He explained they are keeping the septic out of the buffer as much as possible though there is a little bit still in there because of the tightness of the site.

Chairman Galezo questioned, to the left of the driveway, how close they are into that steep slope and if there might be some give there to move the driveway even further left and maybe shorten it and bring the garage down so that can be brought out of the buffer even more; kind of rotating the whole thing, shortening the driveway and rotating the house and the garage down a little. He stated you could almost get the house out of the buffer if the house was where the garage is and the garage was further down the driveway. Mr. Snyder responded the house would be up in the steep slopes. The Chairman explained he is not intimately familiar with where it's really steep on the property and how much give there might be in that area. Mr. Snyder stated there's a little bit of flat area above the wall and that's where they've got the driveway; the driveway is now riding up on top of the wall, where it's a little bit flatter. The garage is on another small flat spot.

\*Krystal Ford arrived to the meeting at this time. (7:36pm)

Mr. Snyder explained he's done numerous renditions of this plan and this really is the greatest balance of cut and fill. Chairman Galezo questioned if there is a view from the house or some reason for getting the house back up that high and if there is any negative impact to what the owners are trying to achieve if the house was moved completely out of the buffer. Chairman Galezo noted that the house is currently completely in the buffer. Mr. Snyder stated they would be completely up into the steep slopes. There is already a lot of runoff and there's already a 6-foot-high wall in the back; pushing that up wouldn't be good. The Chairman questioned if it would be possible to make the garage part of the house. Mr. Snyder explained the owners would prefer everything to be one level and avoid having to climb any stairs.

Chairman Galezo questioned if they kept the garage but pushed it down the driveway a little bit then rotate the house around they could be able to get the house out of the buffer as much as possible. Mr. Repetto suggested it would be great to get as much of the house out of the buffer as possible.

A member of the audience, Kathy Smelter, requested the board explain exactly what the buffer means. Chairman Galezo explained that there is a 100-foot buffer on either side of any intermittent stream, 100 feet on either side from the center of that stream is considered protective of that waterway and the Town tries to keep anyone from doing work in those areas. If someone wants to do work in any of these buffer zones, they must obtain a wetland permit to do so.

Mr. Snyder stated he believes that moving the structures will create too much earth work and make the project not feasible. Chairman Galezo explained he didn't understand and questioned if there would really be that much more cut and fill. Mr. Garfinkle requested he point out the tree line and where that might be because that's the best thing he has to then reference. Mr. Snyder stated he believes the tree line is the existing wall. Mr. Snyder asked Chairman Galezo to clarify where he would like to see the house moved to. Mr. Galezo used the plan to explain to Mr. Snyder exactly what he was thinking. Mr. Snyder explained that where it is now, it is located along the contour, the house and the driveway.

The Chairman explained that he doesn't know the property as well as Mr. Snyder but was simply suggesting it may be possible to move. He stated the board is trying really hard not to let building to occur in these buffer zones as much as possible. Mr. Snyder stated the buffer isn't a restricted area but a regulated one. He added, if they put in mitigation measures and show that development within the buffer reduces the impacts to other areas of the site, it should be considered. Chairman Galezo explained the board is considering the affect on the intermittent stream, that is the one piece they are regulating here. Mitigating the affects on other parts of the property is not the point, unfortunately.

Ms. Martin stated that Mr. Snyder had mentioned mitigation and questioned what the suggested mitigation measures would be for this property. Mr. Snyder responded they could have stormwater infiltration, plantings along the watercourse including bushes and shrubs that would shore up the shoreline or the intermittent streambed and supply habitat. Ms. Martin stated that corner of the house is about 20-25 feet from the center of the streambed. Mr. Snyder stated it's a lot of work to put that house on that site. Ms. Martin agreed, it is a challenging site.

Chairman Galezo stated this is only a 3-bedroom house and questioned if the septic was decreased to a 3-bedroom system, how much smaller it would be. Mr. Snyder stated it would not substantially provide a whole lot more room where they could reposition the house. It would take a couple laterals off the top which would only give them 6 more feet.

Mr. Galler stated this plan does not show the entire parcel. He noted a portion of the parcel which is very steep and questioned what happens past that. Mr. Kingsley asked the exact parcel size. Mr. Snyder stated it is 6.3 acres. Mr. Galler stated it may very well continue to be steep or could be a flat area, hence the reason for his question. Mr. Galler explained, the unfortunate thing is that when this subdivision was done it was not executed the way it was designed, from what he gathers.

Chairman Galezo stated these are revised plans and requested the property be staked so the board can go out and take a look. He continued, after the site walk if the board agrees that it is just utterly impossible to move the structures, then they'll have to continue the discussion further.

Mr. Garfinkle questioned what the draw is to remaining in that area and not wanting to explore the potential of the upper area Mr. Galler had discussed. Mr. Galler stated they don't know what it is yet and could just be a small flat area. Mr. Garfinkle suggested this still has to go back to the Department of Health for approval. Chairman Galezo asked the applicants if they have been up to the part of the property that Mr. Galler is describing. Ms. Wahlman stated they had and it is a

fairly large flat area but getting the driveway up there would be the difficult part as they would have to traverse the steep slopes. Mr. Galler suggested there is already a road there and questioned what the condition of that road is. Chairman Galezo stated it would be worth it to get the board out there and walk the property.

Ms. Smelter questioned if the wall discussed is the stone wall and informed the board that it is 150-200 years old and directly abuts her property. Chairman Galezo explained the wall they are talking about is a different one that is located completely within their property. The Chairman explained that according to their plan that wall will remain completely intact. Ms. Martin added, there are provisions in the code to protect historic stone walls.

Mr. Repetto urged the applicants and their representative to look at the feasibility of that flat spot at the top and the potential to move the work out of the buffer. Chairman Galezo questioned where the stream continued on after the end of where it's shown on the plan. He stated the board is in a tough position now, fighting for these last lots in the Town that people are trying to fight to build on without complying to the way the law is written. Mr. Snyder countered that this is an approved subdivision lot and the site improvements that they are proposing are where the site development was shown on the approved plan. Mr. Kingsley stated it is an approved lot but not the location of the house.

Mr. Snyder stated they would do a sketch showing the house rotated like discussed earlier. The Chairman explained, if they can find a way to get the house completely out of the buffer, that's it, they're done with the board. Mr. Snyder stated they would go out and look at that area and see what they can come up with. Mr. Garfinkle suggested that going through the alternatives is also helpful in justifying this plan as the best approach.

Ms. Smelter stated that when the board met in August there was mention of a site review to be performed. Chairman Galezo stated they discovered that there were some problems with the data that they had so they did not do the site review based on the old map. They have now revised the entire project and provided a completely new map that the board is just seeing for the first time, so they will now do the site review based on this. Mr. Garfinkle clarified that the board did not hold a formal meeting in August, it was the July meeting that this application was last discussed. Ms. Smelter requested a copy of the site review once it is done. The Chairman directed her to either attend the site visit, the next meeting, or read the minutes of the next meeting at which that site visit will be discussed. She then questioned whether or not the Garrison School had been notified because she believes they do own a corner of the property right out by Route 9 & Indian Brook Rd. The Chairman stated they did not have to be notified. The secretary stated she sent notification to all the abutting properties required. Ms. Smelter also stated that part of that area has been deemed part of the historic district as well. Chairman Galezo stated even if that is the case, that is out of the purview of this board. Ms. Martin clarified, Old Albany Post Road and Indian Brook Road are considered historic by the town, but this is well off of the road.

Ms. Smelter expressed her wish that the property be staked for the board to see what the affect might be on the stream and the wetlands. She expressed her concerns over the wetland and stream habitat as well as plants on the endangered species list which she states can be found in that area. Ms. Smelter stated that stream is of utmost importance and flows directly under Route

9. Ms. Wahlman responded stated she did do some research on wetlands plants and species. She stated they are willing to take the mitigation measures necessary to ensure the health of the wetland.

Barbara DeSilva commented that her concern is the septic. Chairman Galezo explained that the Conservation Board only has the authority to protect the stream and has no power over the septic whatsoever; that power lies with the Putnam County Health Department. They make the final determination whether this septic can go where they have it and whether it is built and functions properly. Ms. DeSilva explained there is a spring where the old schoolhouse was and that during storms a lot of water comes down off that hill. She stated when the property was first subdivided, they spoke about a detention basin or a retaining pond or something. Mr. Snyder explained that it was constructed; it is located on the other side of the road. M. Snyder explained they are minding all the setbacks that the Health Department designates for intermittent streams.

Mr. Wahlman explained the Health Department has approved the septic system twice already. Chairman Galezo stated this is a problem their board has run into before. Sometimes the Health Department will approve it and not be aware of a water feature. Mr. Snyder stated the important thing to remember is that the regulations aren't the same. The Town regulates a 100-foot buffer from any stream, intermittent or perennial, while the Health Department differentiates between perennial and intermittent. The Health Department uses a 50-foot regulation buffer from an intermittent stream. Ms. Smelter suggested it is important to see the entire map before a decision is made. Ms. Smelter questioned who the head of the Health Department is. The Chairman stated he is unsure and suggested that information could be found online.

**Surprise Lake Camp, 382 Lake Surprise Rd.**

**TM# 27.-1-1.1**

**WL 19-318**

Rich Williams of Insite Engineering was in attendance along with Bradley Solmsen, Executive Director of Surprise Lake Camp. Mr. Williams explained they made a new submission for this meeting in which they tried to be as comprehensive as possible from the previous meeting and answer all previous questions.

Mr. Williams stated the first thing was the stormwater calculations going to the Town Engineer. Mr. Gainer has received and reviewed the calculations and is in agreement with them. He stated he would save the stream crossing piece for last since there is a little bit more to talk about there and provide some updates.

Mr. Williams explained there was that pipe that was installed within that 100-foot watercourse buffer, which is a NYSDEC and Town regulated watercourse. Their plan proposes to remove that pipe that was installed, perform some slight drainage improvements, namely construct a berm there just to keep the water from continuing to run down that access drive, create a rip-rap swale to safely convey the water to the stream, connect the field drainage to a swale back down to the stream. He clarified the water has always flowed that way; they are not changing drainage patterns. Relative to conveyance, the question had come up, they are proposing a grass swale on that flat portion of property to take some of the drainage from the field and some of the drainage from the slope, and that discharge from that water quality swale. Mr. Williams explained those

water quality swales' have been constructed and construction is essentially complete on that lower access road.

Mr. Williams stated there were some questions in the past regarding the one water quality swale and explained it's basically a grass swale with soil media underneath it and there is a low-flow outlet at the surface which is basically a perforated pipe with gravel and it's got an orifice on the back that's specifically engineered to hold the water for 30 minutes and then underneath the soil media they have an underdrain which also feeds into the outlet structure and ultimately goes down to where it always did.

Mr. Williams continued, the next conversation we started to have was what to do with what they were proposing as a grass swale. Is there something better they could do such as a pollinator or select plants. One of the things that was talked about was a rain garden or a bioretention filter. He explained there are 2 different practices in the NYSDEC design manual. They have similar features; they both have a planting media followed by an engineered soil media and then a gravel layer underneath with an underdrain, or you let it infiltrate. Based on where they are on this portion of the property and the proximity to the stream, he does not believe they have sufficient depths to put a deep cross-section in, which is why they have taken the approach of a grass swale with check dams. It's a shallow cross-section, the water will pool behind the check dams and give it time to absorb. Mr. Williams stated that tonight they are proposing putting in an Ernst seed mix which contains pollinator plants. He stated it is called their steep slopes mix and contains close to a dozen seed varieties. They think this is a good way to keep the conveyance and encourage infiltration as well as start to create some of that meadow feel.

Mr. Kingsley questioned what the estimated currents are of a real decent wash coming down through there. Mr. Williams explained it's somewhere between 10 and 30 cf/s. He explained he does not have the SWPPP with him to consult. He explained the way it comes down; it comes down through the swale and there is rock outlet protection at the end where it comes out. Mr. Williams explained that they maintained the same flows from pre to post development. They are not actually changing the flows but creating a more stable outfall condition.

Mrs. Martin requested Mr. Williams explain the hydrology of the grass swale with the check dams near the field and how it would be accepting water from both sides. Mr. Williams explained, this has always existed just not in a formal state. You have the access driveway that comes to the stream crossing and then there's another access path that heads towards the large grass fields. What happens is, water comes down from the hillside, there's always been a swale on the upper side of the road, with no stormwater practice in place, it just directly discharged, the topography slopes towards the courts, on the slope and then flowed towards what is essentially just a depressed kind of area where it meandered to a driveway culvert, discharged to just item 4, and then ran straight to the stream. Mr. Williams explained, they have not changed the hydrology or the drainage areas. What they've done is maintain the peak flows, added a stormwater practice there and proposed discharging it originally to a level spreader to reestablish sheet flow with the same flows as previously, and then letting it continue on its course because they did not want to go into the buffer. Then, the contractor ended up taking it upon themselves to pipe it straight in; a well-intentioned thought but not such a great idea. Now, they are going to reestablish this as a formal grass swale with sufficient width and depth to accommodate the peak flow, put the check

dams in which are sized and spaced based on the slope of the swale and put in a seed mix. Then, they will leave the culvert that was always there but put a formal swale in to take it down to the stream safely to prevent future erosion.

Mr. Williams explained, the other thing they have continually been discussing with the board is the fact that in that portion of the stream there is significant washout which is usually repaired once a year. He stated they have done some investigation work and gone and done some pricing. Their fear was that, to go into that stream and replace the culvert system comes with significant cost. He stated they actually put together a concept scope of work and got some preliminary pricing from contractors and the camp thinks they may have found a way to make it work. So, they would like to talk to the board tonight about replacing those existing pipe culverts with a concrete box culvert. He explained they would have to bury the box culvert into the ground and reestablish a natural streambed, that's DEC policy. This would establish a crossing that's as wide as the stream and a reestablished, natural stream bottom, which is what DEC looks for, for animal movement.

Mr. Galler questioned why an open bottom culvert was not being proposed. Mr. Williams explained that the footing work is a lot less in terms of the time spent working in the stream. A lot of times a bottomless culvert requires footings on either end to support the weight because you're almost building a bridge which would require screening off parts of the stream because they are usually cast in place. He explained, as part of their permit with DEC, they will have to show how they're going to stop the stream flow, create a temporary bypass through the work zone and set the culvert. Mr. Galler stated the only problem with using a bottomed culvert is maintaining the streambed in it can be very difficult; they tend to wash out in major rain events. Mr. Galler stated his memory of it is that it's not that wide and suggested there are certainly precast bottomless culverts of that size. Chairman Galezo questioned how wide it is. Mr. Williams stated it's approximately 8 feet. Mr. Williams explained they could look into that option and see what's available on the market. Mr. Galler questioned if they would be bringing vehicles over that. Mr. Williams reported they have to bring landscape equipment over it and H-20 loading is something they would do because he can not say that larger equipment would never have to use the crossing. It would also be a good idea in case an emergency vehicle ever had to use it. Chairman Galezo also stated that they would prefer an open bottom culvert. Mr. Williams stated he would definitely look into it but explained the one thing that sometimes makes them unfeasible is the construction that goes with them. Sometimes you have to dig deeper to get the footings in.

Mr. Garfinkle questioned how wet that grass swale typically is and stated a lot of the species in that mix Mr. Williams had mentioned are pretty dry grass species. Mr. Williams stated it dries out somewhat during the summer, the side and fringes will hold, in the spring and the fall it does get some moist areas.

Mr. Garfinkle stated, from the board's perspective, the next step would essentially be to write up a permit to do both those phases or whatever work there is to be done within that 100-foot setback and then you'd have that in hand to bring to the DEC. The board just needs to see a finished plan with justifications in order to move forward. Mr. Garfinkle asked if that pipe that was put in that is now blocked is going to be removed. Mr. Williams said they are and that is

represented on the drawings. Mr. Williams stated they would look into that open bottom culvert and return next month.

Mr. Garfinkle stated he would quickly like to go over the letter from State Parks regarding the tree cutting violation with Mr. Solmsen. He asked Mr. Solmsen to provide the board with an update.

Mr. Solmsen stated the camp submitted a response to State Parks with a draft proposal and on September 3<sup>rd</sup> they responded to their proposal. He stated they intend to comply with everything that was discussed in the State Parks response. He stated they would be sending a response in writing, and would copy Mr. Garfinkle on that, stating that they intend on remedying the situation as suggested. Mr. Solmsen explained he had one question concerning the rattlesnake issue and stated they want to be cognizant of that. There may be some minor timing changes.

Mr. Garfinkle stated the board would like to ensure that an appropriate size replacement tree is met, predominantly anything greater than 3 inches in diameter at breast height. Anything planted should be protected from deer browse. He stated that State Parks is asking for 5-year survivability and in order to ensure that, the board would suggest that they plant 2-3 times the number of trees that were removed because the maintenance of those trees is probably going to be limited and planting more will increase the overall survival. Mr. Solmsen suggested it would be helpful if Mr. Garfinkle relayed that suggestion to State Parks. Mr. Garfinkle stated there was mention of the annual rye and suggested they mix in native species annually to help phase out that rye grass. He stated there were also wetlands that were impacted and stated that any restoration work that is going to occur within the 100-foot setback, especially in that severely steep road that was created, will need to be permitted by this board and restoration drawings showing that need to be submitted. Also, in terms of invasive species management down the road, if that is going to include herbicide usage or anything like that and its going to occur within the wetland setback, that would also need to be permitted by this board. Mr. Solmsen stated he would copy Mr. Garfinkle on their response to State Parks.

Ms. Percacciolo reminded the board members that beginning October 1<sup>st</sup>, all meetings will be held at the Philipstown Recreation Center in Garrison until further notice while renovations are being completed at the Town Hall.

Mr. Galler moved to adjourn the meeting and Mr. Kingsley seconded the motion. All were in favor and the meeting adjourned at 8:40 pm.

Date Approved: \_\_\_\_\_

Respectfully submitted by,

Tara K. Percacciolo



October 25, 2019

Mark Galezo, Chairman  
Town of Philipstown Conservation Board  
238 Main Street  
Cold Spring, NY 10516

Re: Application of Thomas & Janet Wahlman  
28 Justin's Way, Garrison  
Tax Map No. 49.-4-51.11

Dear Chairman Galezo and Members of the Board:

Please find enclosed nine (9) copies of the most recent version of the site plan for the subject application.

In consideration of the concerns raised by the Board regarding the proposed septic system absorption fields within the regulated buffer area, the engineer for the septic has been working with the Putnam County Department of Health on a revised design. The new design includes the following:

- Abandoning the 12" culvert across Justin's Way.
- Adding a manhole structure to the inlet of the 24" culvert, on the south side of Justin's Way.
- Locating the primary absorption fields to the west, completely outside the regulated buffer area.
- Relocation of the reserve laterals to a minimum of 75' from the intermittent watercourse, where the health department requires a minimum of 50'; and,
- A reduction of septic design flow from four (4) to three (3) bedrooms.

The proposed house, garage and driveway are all sited completely outside of the regulated buffer area, as are all other proposed impervious surfaces. The well, water service, septic tank and all effluent/house sewers are also all completely outside of the regulated buffer area.

[www.Badey-Watson.com](http://www.Badey-Watson.com)

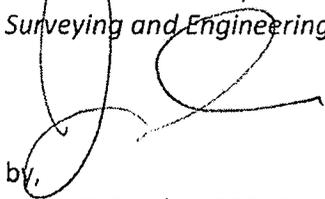
The only proposed disturbance within the regulated buffer is a small amount of grading around the front corner of the proposed house. This area of disturbance is approximately 1,640 square feet, and the amount of earthwork is approximately 115 cubic yards of fill – no cut is proposed in the buffer. The fill material will be native site fill taken from the foundation excavation.

There will be zero trees or shrubs removed from the regulated buffer area. Preparation of the reserve septic area is not required now, and for all intents-and-purposes, this area will remain undisturbed indefinitely.

We believe that the new plan has reduced potential impacts to the regulated area to the greatest practical extent. We hope that you will find that this proposal allows for the reasonable use of the land, and is consistent with the Board's objective to protect this regulated area to the extend reasonably practical.

Thank you in advance for your continued review and consideration of this application.

Yours truly,  
**BADEY & WATSON,**  
*Surveying and Engineering, P.C.*



by,  
Jason R. Snyder, CPESC

jrs

enclosures

cc: Tom & Janet Wahlman – Owner (email)  
Mike Carr, PE – Civil Engineer (email)  
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