

**CONSERVATION BOARD**  
**238 Main St., Cold Spring, NY 10516**  
**November 13, 2018 7:30 PM**

**MEETING AGENDA**

**1) Approval of Minutes:**

- October 9, 2018

**2) Return of Escrow:**

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

**Robert Ashley, 3 Ethan Drive**

**TM# 91.6-1-50**

(The applicant is seeking to a new single-family residence to replace the demolished residence. A wetland determination has not yet been made by the Wetland Inspector.)

**Herron, 563-569 Route 9D**

**TM# 81.-1-25 & 26**

(The applicant is seeking relief from another year of oversight per the approved wetland permit. The applicant believes there would be no ecological gain of another year of oversight as all plants have taken and have achieved their intended trajectory.)

**3) New Business:**

**PB Referrals**

**Lowrey Residence, 80 Eyrie Road**

**TM# 49.-3-81**

(The applicant is seeking approval for the razing of a 5,300 square foot (floor area) single family residence and construction of a new 5,216 square foot (floor area) single family residence at essentially the same location. A garage is also proposed. The property is located in an RC zoning district. The Planning Board is seeking guidance from the CB should it wish to offer any comments with respect to site access or other issues they may wish to identify that should be considered as the application is processed.)

**Kristan Connolly, Route 403**

**TM# 82.7-1-2**

(The applicant is seeking site plan approval for a new single-family residence on an approximate 1.5-acre parcel to be served by private well and septic. The property is located in the RR zoning district. The Planning Board is seeking guidance from the CB should it wish to offer any comments with respect to site access or other issues they may wish to identify that should be considered as the application is processed.)

**4) Stormwater Discussion:**

**5) Other Discussion:**

**Galotti, 589 Route 9d**

**TM# 81.-1-32**

(Mr. Garfinkle performed a final inspection and the permit is ready to be closed out.)

**Baumler, 5 Winston Lane**

**TM# 83.17-1-6**

(Mr. Garfinkle performed a final inspection and the permit is ready to be closed out.)

**TOWN OF PHILIPSTOWN CONSERVATION BOARD  
238 MAIN STREET, COLD SPRING, NY 10516  
OCTOBER 9, 2018  
DRAFT MINUTES**

The Conservation Board held its regular meeting at Philipstown Town Hall on Tuesday, October 9, 2018.

Present: Mark Galezo (Chairman)  
Max Garfinkle (Natural Resources Review Officer)  
M.J. Martin  
Robert Repetto  
Eric Lind  
Jan Baker

Absent: Lew Kingsley  
Andrew Galler

**\*\*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.

**Return of Escrow:**

**Joseph Estvanik, 125 Old Albany Post Road**

**TM# 83.5-1-1**

Mr. Estvanik reported he was in attendance looking to get a finalization on the project and to request the remainder of his escrow to be refunded. Mr. Garfinkle reported that he went out to the site to inspect what had been done and is satisfied with the outcome. Ms. Percacciolo directed the applicant to put the request in writing and mail/email it to her so it can be added to the official record.

Mr. Baker moved to approve the return of escrow for Mr. Estvanik and Mrs. Martin seconded the motion. The vote was as follows:

Mark Galezo	-	Aye
Andrew Galler	-	Absent
M.J. Martin	-	Aye
Robert Repetto	-	Aye
Eric Lind	-	Aye
Jan Baker	-	Aye
Lew Kingsley	-	Absent

Mr. Estvanik thanked the board for the work they do for the town.

**Old Business:**

**Twin Bridges Road**

**TM# 82.-1-69**

Glenn Watson of Badey & Watson was present representing the applicant. He distributed copies of a revised set of plans to the board members. Mr. Watson stated this application is for the repair of a large culvert. He explained there is a fairly large culvert, his approximation was 42 inches, but stated it was hard to measure because it had been crushed. Mr. Watson stated there was an interim repair made using 2 smaller culverts placed on top of the existing crushed culvert. He stated the water has backed up.

Mr. Watson reported, what they would like to do is remove the 3 culverts that are there now and replace them with one culvert, in kind. Mr. Watson stated, when this road was constructed it was constructed with a series of 24-inch culverts spaced about every 25 feet apart and added that they are above the grade of the 2 major crossings.

Mr. Watson stated their plan is to remove the 3 pipes that exist there now and replace them with another culvert. About a foot of it will be below grade and consist of accumulated sand and gravel inside, somewhat of a natural bottom culvert. He stated it will be placed approximately a foot higher than the bottom of the stream at the one end, so there will still be some ponding there but it will come over and spill out to rip-rap and then back into the natural stream. What they basically did is adopt the grade of the stream downstream and just carried it through to the other side of the culvert. He stated they have provided for rip-rap on both sides and 2 stone masonry retaining walls to prevent further erosion. Mr. Watson stated they also provided for not only the 14-foot width that's required, but 2-foot shoulders on each side, so they have about 18 feet between the walls so that the road will be a little wider going through there.

Mr. Watson explained there is a temporary sandbag dam to allow access to the stream. He stated they found an existing culvert under a little farm road that goes off of the main road, which they can very simply direct water through to then make its way out, though it may cause minimal flooding in one general area but will eventually rise to those pipes and go out.

Mr. Garfinkle stated the boards biggest concern was making sure that the elevation of the bottom of the pipe meets the elevation of the stream, so that the connection is improved there, and to also make sure that the proper erosion control measures are put in place.

Mr. Lind questioned when the stream is diverted, where will it reenter the streambed. Mr. Watson noted the area on the map, where it is all very wet as is, and stated what will happen is the water will reenter in that general area and find its way back to the main stream. Mr. Watson estimated the work will take approximately 3-5 days to complete.

Mr. Garfinkle questioned if DEC approvals have yet been obtained. Mr. Watson reported that they have not. Mr. Garfinkle stated that is the only other piece of this that's needed. Mr. Watson stated that the DEC actually doesn't map this. Mr. Garfinkle explained that he had asked the DEC that question and was informed that because it is essentially hydrologically connected to that trout stream, they would also classify that as a DEC regulated stream.

Mr. Lind stated he is aware that it is all fairly level there but questioned if there is any risk of soil erosion as the diverted stream finds its way back to the natural stream bed. Mr. Watson stated he was unsure but it is possible. He added they could put down some rip-rap in that area if necessary. Mr. Lind also questioned if it will reenter the natural stream far enough south so as to enable them to work. Mr. Watson stated it would. He stated if it is something the board is concerned about, they could put another dam in, across the downstream side, to discourage water from backing up; that could be possible. Mr. Lind stated he is unsure what the solution is. Mr. Watson said it is really pretty level and pretty swampy and is going to level out pretty quickly. Mr. Repetto questioned if pumping the water around would be better. Mr. Garfinkle stated he does not believe so because of the very short timeframe and he does not think DEC will find it to be an issue either. Mr. Galezo stated they could have a pump on standby, as a plan B.

Mr. Garfinkle suggested the board vote on the matter, contingent upon approval from the DEC and conditioned on the downstream observation during the diversion of the water to ensure stability.

Mr. Baker moved to approve the application for a wetlands permit, contingent upon approval of the DEC and with the condition that downstream observation take place during the diversion of water and Mrs. Martin seconded the motion. The vote was as follows:

Mark Galezo	-	Aye
Andrew Galler	-	Absent
M.J. Martin	-	Aye
Robert Repetto	-	Aye
Eric Lind	-	Aye
Jan Baker	-	Aye
Lew Kingsley	-	Absent

### **New Business:**

#### **Robert Ashley, 3 Ethan Drive**

**TM# 91.6-1-50**

There was no one in attendance representing the applicant for this project. Mr. Garfinkle stated he had been in contact with the applicant that morning and reiterated that the project would be discussed at this evening's meeting.

Mr. Galezo reported that it appears the application is also incomplete and that should be conveyed to the applicant. The plans are incomplete as they do not show the wetlands buffer, along with other missing items.

Mr. Garfinkle reported that he needs legal guidance regarding this application. He stated the property sits right on the border of Putnam and Westchester counties. Without looking at county boundaries in terms of regulatory authority, he stated there are 2 regulated resources that would affect the property; one is an intermittent stream that essentially is created from an outflow of a culvert coming off of Ethan Drive that basically just spills out onto this property. Mr. Lind

questioned if this is just road drainage. Mr. Garfinkle stated it traces back to a culvert but is essentially an established intermittent stream. He continued, that flows into another small intermittent stream which basically parallels the Westchester/Putnam border on the Westchester side of the county line. Mr. Garfinkle stated he is unsure in terms of regulation as to whether the board would regulate the 100-foot buffer from that resource as well or how to go about that.

Mr. Garfinkle stated the other component of this is, it has been in front of the Planning Board already for access approval, because it is a private road. Mr. Garfinkle stated there is another component to it and stated he thought they had demolished the house. Ms. Percacciolo stated the house had been demolished previously but because the house was not rebuilt within the allotted time period of a year, the applicant must start the process over and obtain new approvals.

Mr. Garfinkle stated there is an existing septic but the site looks reestablished; it doesn't even look like a building was ever there. Mr. Garfinkle had spoken with the applicant and had requested he provide a site containment plan but that was not provided. Mr. Garfinkle stated, the question is where do they place the 100-foot setback lines to see how much of the property is regulated in terms of altering the position of the home to a less regulated area on the property.

Councilman Leonard suggested the applicant may need to contact the appropriate regulating agency in Westchester, possibly the Town of Cortlandt and provide correspondence from that agency to this board before any approvals can be made. Mrs. Martin questioned if it would be the applicant's responsibility to contact the Town of Cortlandt or would that fall on the board, as a courtesy, to share this information. Councilman Leonard stated that responsibility would fall on the applicant. Mrs. Martin noted that the property itself lies entirely within the Town of Philipstown.

Mr. Garfinkle stated he would compose a letter to the applicant conveying what was discussed at this evening's meeting and what they expect to see next in the process. He suggested the board try and get out to the site to observe some of the things discussed this evening.

Mr. Galezo questioned if this is a new owner or if this is the same owner as when the house was demolished. Mr. Garfinkle stated it is his belief that this is a newer owner and is a builder. He continued that he thought that this owner bought it from the previous owner who demolished the home. Mr. Galezo expressed his concern about whether this should be considered new construction since it has been so long since the original structure was demolished.

**Other Discussion:**

**SEJE Realty, LLC, 1510 Route 9**

**TM# 82.7-1-14**

Mr. Garfinkle stated the Planning Board has referred a project located at 1510 Route 9 to the Conservation Board for comment. He stated the property abuts Annsville Creek. The applicant is proposing to erect a screening fence that falls within the 100-foot buffer. It was decided that Mr. Garfinkle would convey to the Planning Board that the applicant would need to come before the Conservation Board to apply for a wetland permit regarding the activities being proposed which will fall within that 100-foot buffer zone.

## **Planned Timber Harvesting Project at the Town of Philipstown/Town of Fishkill Border**

Mr. Garfinkle stated that the Town has been notified by the Town of Fishkill about a commercial tree harvest that has been approved at the state level and is now getting scrutinized by the Town Board of the Town of Fishkill. He stated the property is located at the very northern end of Philipstown. Mr. Garfinkle stated the property consist of approximately 100 acres but the harvest will consist of 68 acres. However, the only access to the property with the trucks is through Philipstown. Mr. Garfinkle added that it is a private road that runs to a Town road which then leads to Route 9.

Mr. Garfinkle explained that he put in a request to the DEC that they send Philipstown the 480A, basically the forest management plan, for that project. He added that on the 18<sup>th</sup> of this month the property owner or the representative is going to be meeting with the Fishkill Town Board to discuss the project.

Mr. Garfinkle stated he had to request a copy of the plan through a FOIL request and was notified that it is ready to be reviewed. However, it needs to be reviewed in their office or the town will have to pay for a copy of the materials. The other option is to contact the property owner and request a copy from them, since they will be using the Town of Philipstown road system. Mr. Repetto questioned why the information couldn't be requested from Fishkill. Mr. Garfinkle reported that the Town of Fishkill has supplied him with copies of everything they have regarding the project which essentially consisted of the identification numbers for all of the DEC stuff.

Mr. Garfinkle suggested that it might be a conversation best had Town Board member to Town Board member stating there are some concerns from the Town of Philipstown end regarding access and the use of the roads and request more information. He reiterated that the biggest concern is access in terms of large trucks hauling timber out of the site.

In terms of conservation concerns, the property in question borders the Town of Philipstown in an area where you have the Open Space Overlay district right around Lake Valhalla and also the Hudson Highlands State Park land. Erosion is also a large concern. Mr. Garfinkle stated these things may very well have been addressed in the plan, but without seeing the plan they don't know.

Mr. Repetto questioned what will happen with the property, if they are going to just clear cut the land and let that be it. Mr. Garfinkle explained that the 480A program in New York is a tax incentive program. Someone who owns a large wooded lot can enroll a certain acreage in the program, which takes it off the tax roll essentially and you get a tax break. One would work with a DEC forester through a plan that then gets submitted, reviewed and approved by the DEC Regional office. He continued, typically there's a 5-year management plan.

Mr. Garfinkle again suggested that a Philipstown Town Board member reach out and try to obtain more information on the project.

Mrs. Martin suggested that what happens on this forest land will directly affect the contiguous forest land in Philipstown as well and questioned if a species survey has been done.

Mr. Garfinkle stated a lot of the environmental review is just timing. Mr. Garfinkle stated there is more to it than that; there are a lot of heritage elements in that area that have dissuaded logging in the past.

Mr. Baker suggested this kind of operation could do hundreds of thousands of dollars in damage to the roads. Mr. Garfinkle added that the turn coming out of there is bad enough but could be even more dangerous with a large logging truck. Mrs. Martin added her concerns for residents noting the area as residential.

Mr. Lind suggested, in terms of forest impacts, that judgement should be withheld until they can review the management plan because there may well be a solid, well-informed forest management plan developed by a professional forester. He stated it could potentially be quite sound. Mr. Lind stated it may not be a straight-forward clear-cut of the land, there are a lot of options, and right now the board has none of this information at hand. He stated the road is really the big deal as far as Philipstown should be concerned, at this point in time.

Mr. Lind reported that he is currently working with a property in Columbia County, forest management. He stated there is going to be a lot of tree removal but the timber isn't quality enough to actually harvest & sell which would be ideal, because you do want to encourage this sort of sustainable resource, in this case timber. Mr. Lind stated they walked the property with NRCS (Natural Resource Conservation Service) and mapped out intermittent stream beds and looked at slopes and modified the plan based on these things. What they're doing is forest habitat restoration, primarily. Mr. Lind's point being, the cutting of trees and improvement of forest habitat conditions can work together. He stated that the board needs to understand the management plan first. Ultimately, if the project has a consulting forester, an awful lot of good could be done there, but the board needs the opportunity to review the plan.

Mrs. Martin reported there are landowners in Philipstown who are part of this program and that Mr. Lind is absolutely correct, it depends on the plan.

Everyone agreed that the large trucks traversing a residential road is a completely different concern that needs to be addressed.

In terms of the stormwater component, Mr. Garfinkle reported that they are completely exempt. It is addressed in the forest management plan but they do not have to have a stormwater plan.

Mr. Garfinkle stated he would go and take a look at the plan and report back to the board what he has reviewed and what the next step should be in terms of reaching out to the neighboring municipality.

### **Minutes:**

The minutes of September 11, 2018 were reviewed. Mrs. Martin moved to approve the minutes as presented and Mr. Lind seconded the motion. The vote was as follows:

Mark Galezo	-	Aye
Andrew Galler	-	Absent
M.J. Martin	-	Aye
Robert Repetto	-	Aye
Eric Lind	-	Aye
Jan Baker	-	Aye
Lew Kingsley	-	Absent

The minutes of July 10, 2018 were reviewed. Mrs. Martin moved to approve the minutes as presented and Mr. Lind seconded the motion. The vote was as follows:

Mark Galezo	-	Aye
Andrew Galler	-	Absent
M.J. Martin	-	Aye
Robert Repetto	-	Aye
Eric Lind	-	Aye
Jan Baker	-	Aye
Lew Kingsley	-	Absent

Mr. Baker moved to adjourn the meeting and Mrs. Martin seconded the motion. All were in favor and the meeting adjourned at 8:30 pm.

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

Respectfully submitted by,

Tara K. Percacciolo



## Town of Philipstown Planning Board

238 Main Street  
P.O. Box 155  
Cold Spring, New York 10516

October 31, 2018

Mark Galezo, Chairman  
Town of Philipstown Conservation Board  
PO Box 155  
Philipstown, NY 10516

RE: Lowrey Residential Site Plan  
Eyrie Road (off NYS Route 9)

Dear Mr. Galezo:

The above project represents a new Site Plan application just received by the Town Planning Board. As some limited disturbance of town-regulated slopes are proposed, in accordance with §175-36 the site plan materials are being referred to your Department to give you an opportunity to offer any comments you may wish to provide to the Planning Board on the development concept.

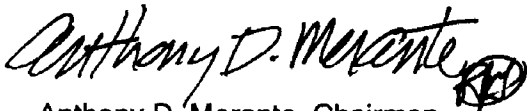
The site encompasses a parcel along the south side of Eyrie Road (private road, off the west side of NYS Route 9). The 68.7-acre parcel contains an existing residence and outbuildings. The existing main house comprises a 4-BR 5,000 sf structure which, due to its poor condition, the owners plan to demolish. A 5,300± sf 3-BR home, is proposed to be placed within the footprint of the existing structure. There is also an existing, detached 2-car garage on the property.

The site includes frontage along NYS Route 9, which is identified on the Town's "Scenic Protection Overlay" mapping. Further, it lies adjacent to regulated ridgelines showing on the "Scenic Ridgelines" overlay mapping. This information is showing on the project's site plans. No disturbances within either of these overlay zones are proposed. Lastly, the property to be developed lies within the Town's "Open Space Overlay District".

We are seeking guidance from your Department should you wish to offer any comments with respect to site access or other issues you may wish to identify that we should consider as this application is processed.

We look forward to your reply. So as not to unduly delay our processing of this application, we would appreciate receipt of any comments you may wish to offer by our next meeting. We will consider the lack of receipt of any response from your Department by November 15, 2018 as evidence that your department has no concerns over this Site Development proposal.

Sincerely,



Anthony D. Merante, Chairman

cc: Tara Percacciolo, Planning Board Secretary  
Ronald J. Gainer, PE, PLLC  
Stephen Gaba, Esq.

## Town of Philipstown Planning Board

238 Main Street  
P.O. Box 155  
Cold Spring, New York 10516

October 31, 2018

Mark Galezo, Chairman  
Town of Philipstown Conservation Board  
PO Box 155  
Philipstown, NY 10516

RE: Connolly Residential Site Plan  
NYS Route 403

Dear Mr. Galezo:

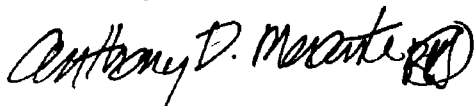
The above project represents a new Site Plan application just received by the Town Planning Board. As disturbance of town-regulated slopes are proposed in order to access the proposed house site, in accordance with §175-36 the site plan materials are being referred to your Department to give you an opportunity to offer any comments you may wish to provide to the Planning Board on the development concept.

The subject of this Site Plan application encompasses a 1.5± acre vacant parcel along the west side of Route 403 near the Route 9 intersection, and lying generally across from Cross Road. The applicant proposes to construct a 2-story, 4 BR residential structure, with an attached garage. Due to site's topography, the driveway will extend along a serpentine path to reach the area of the garage. As noted above, much of the site is also encumbered by town-regulated steep slopes (>20%), which will be disturbed by the intended development and can't reasonably be avoided.

We are seeking guidance from your Department should you wish to offer any comments with respect to site access or other issues you may wish to identify that we should consider as this application is processed.

We look forward to your reply. So as not to unduly delay our processing of this application, we would appreciate receipt of any comments you may wish to offer by our next meeting. We will consider the lack of receipt of any response from your Department by November 15, 2018 as evidence that your department has no concerns over this Site Development proposal.

Sincerely,



Anthony D. Merante, Chairman

cc: Tara Percacciolo, Planning Board Secretary  
Ronald J. Gainer, PE, PLLC  
Stephen Gaba, Esq.