

CONSERVATION BOARD
238 Main St., Cold Spring, NY 10516
August 13, 2019 7:30 PM

MEETING AGENDA

1) Approval of Minutes:

- July 9, 2019

2) Return of Escrow:

3) Old Business (all old business pending):

Thoman & 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.)

Surprise Lake Camp, 382 Lake Surprise Rd.

TM# 27.-1-1.1

WL 19-318

(The applicant is seeking remedy for work that was done in relation to the Phase 1 improvements that was not consistent with the approved plan (a pipe was installed within 100 feet of a regulated watercourse.) The applicant is proposing to remove the recently installed drainage system and to construct the stormwater collection and conveyance in accordance with the plans. In addition, they are proposing the re-establishment of a grass swale uphill of an existing driveway culvert, to install end sections on the recently replaced driveway culvert, and to stabilize the area between the outfall of the driveway culvert and the watercourse.)

4) New Business:

5) Stormwater:

6) Other Discussion:

**TOWN OF PHILIPSTOWN CONSERVATION BOARD
238 MAIN STREET, COLD SPRING, NY 10516
JULY 2, 2019
MINUTES**

The Conservation Board held its regular meeting at Philipstown Town Hall on Tuesday, July 2, 2019.

Present: Mark Galezo, Chairman
Jan Baker
Max Garfinkle (Natural Resources Review Officer)
Anthony Deos (Alternate)
Robert Repetto
MJ Martin
Andrew Galler

Absent: Lew Kingsley
Krystal Ford

****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 June 11, 2019 Regular Monthly Meeting were reviewed. Mr. Galler moved to approve the minutes as presented and Mr. Deos seconded the motion. The vote was as follows:

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

Old Business

Berland Property, 22 Hudson River Lane

TM# 89.7-1-11

WL 19-316

Joe Enrico of Wetscape Consulting Inc. was in attendance on behalf of applicant Todd Berland. He stated that he had sent a copy of the DEC approval permit to Mr. Garfinkle and that they currently have the OGS approval and are currently just waiting on the Army Corps of Engineers.

Chairman Galezo reported the board was just waiting on that approval and is now ready to vote on the wetland permit.

Mr. Baker moved to issue a wetland permit and Ms. Martin seconded the motion. The vote was as follows:

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

New Business

Thomas & Janet Wahlman, 28 Justin's Way

TM# 49.-4-51.11

WL 19-319

Glenn Watson was in attendance along with the applicants, Tom & Janet Wahlman. He stated they have an existing subdivision lot for which a septic system was permitted some time ago and re-permitted just a few months ago. Mr. Watson stated they were unsure whether they required Site Plan approval so they had a pre-application meeting. Mr. Garfinkle performed a site inspection and came across some wetlands that were not mapped that they were not aware of.

Mr. Watson explained that the plan is slightly different than what was approved by the Health Department. Mike Carr had done the septic design and the original permit was obtained some time ago but the permit has since been renewed and Mr. Watson has been working back and forth with him to make some changes. The first thing Mr. Watson stated they did was have the wetlands flagged by Steve Marino. He then went out and located the flags. There is a drainage ditch swale which Mr. Watson understands is partly natural and partly constructed. He added that Mr. Marino reported there are no associated wetland plants with it. So, they just have the stream, which they plotted along with the buffer.

Mr. Watson stated they are pretty constrained because they have an existing situation in another area that they have to stay away from. So, what they did was realign a couple of things. They realigned the driveway so there will be no reason to cross the stream and put it so it would come out on the one side. Mr. Watson stated they moved the house over. The way the septic system was originally planned, the full length of the laterals close to the house were going to be the primary system and the secondary laterals were going to be further away from the house. In order to reduce any disturbance, they have discussed it with Mr. Carr and they are now going to use half of the field area as the primary system and called the other the tertiary system, the reserved area. Mr. Watson explained, the standard practice in septic system repair is not to use the reserve system first but to dig a trench in between the laterals, if the laterals fail, and replace those in the same place. Mr. Watson explained he can not guarantee that's what will happen but that's the standard practice. So, they have moved the septic system and made sure that all the

initial septic system wastewater would be leached into the ground outside the buffer area. Mr. Watson stated they believe that if it did need repair that it could be in the spaces in between and is one of the reasons they are 6 feet apart.

Mr. Watson reported they have proposed a drain topographically above the house that would capture water from running to the driveway and release it into the stream without having to go over the human intervention there. Mr. Watson stated they picked up the footing drains and carried them behind the house into a series of leeching basins, pretreatment basins, another stormwater basin and then eventually it will lead out into the existing culvert that goes under the road and drains into the detention pond that was constructed for the subdivision. He stated the pipes they are using to get under the road are already there and they intend to keep using them. He stated the rest of the plan is standard notes about erosion control and protection during construction.

Chairman Galezo explained that the board has recently been letting the applicant come in and present their project, ask any questions and then set up a time to go out and look at the site. Then the applicant will have to return next month. Mr. Watson suggested that is relatively new. Chairman Galezo stated they have been doing it for about the last 2 months after they found that they were visiting sites as soon as the application was received before anyone made an initial presentation to the board and it was difficult. By doing it this way, they know what the proposal is and any issues there may be before they visit the site; the board is able to take a more educated look at the property, knowing what the proposal is for each project.

Mr. Galler suggested the applicant is likely trying to start the work when it is dry, in August. Mr. Watson stated the applicants have already sold their house and moved. They did not anticipate this at all and are anxious to get going.

Chairman Galezo questioned if there is any way to move the driveway and garage any further out. Mr. Watson stated there is but they start getting into steeper slopes; it does not make practical sense on this particular project.

Mr. Galler questioned if this is the first lot in the subdivision. Mr. Watson explained it is the second lot, the first is right as you come in. Ms. Martin stated this is located right near her house and that it is quite wet at the bottom of Justin's Way. Mr. Galler stated that when the road was first cut in the site was radically disturbed and no one knew what was there. He stated he was asking which lot it was because for a few years when it was wet there was stuff running off onto route 9 and all of a sudden it seemed to have stopped. Mr. Watson stated that he does not see why that would happen because there are cross culverts and there is a fairly big detention pond built there. Ms. Martin stated it runs across Indian Brook during big surges, big storms. She questioned if the driveway will be paved. Mr. Watson responded it will be gravel and used the plan to show the board the route and grade of the driveway.

Mr. Garfinkle stated there is an intermittent stream of natural nature that runs into that property. Whether or not it was channelized at some point, he could not say but when he went out he observed several wetland indicator plants outside of the streambank of that channel, which is one of the reasons he asked Mr. Marino to go out and look at it, so it could come from a third party.

He stated installing that drain above the property, to him, indicates that it does get fairly wet and does slope down and drain down that area.

Chairman Galezo questioned if this is a 4-bedroom house. Mr. Wahlman stated it will be 3 but has been designed for 5. Mr. Galler questioned if the septic has been designed for 5 bedrooms. Mr. Watson stated he was unsure but Mr. Wahlman is likely correct. Mr. Repetto questioned the reasoning for designing it for 5 if it will only be a 3-bedroom house.

Kathy Smelter was in the audience and stated that she owns the property adjacent to this parcel and has some concerns. She explained that in 2004 there was intent to build a house there and the Planning Board put a cease and desist order to not allow the house for many reasons. She stated there were many contingencies built into that order that many things had to be done before house construction would be allowed. Ms. Smelter stated she is not an engineer, just a conservationist and a homeowner, but is extremely concerned. She stated there is mention of offsite draining and explained that the stream being discussed goes right through her property; there are salamanders and a lot of endangered species that go through and that is a real concern. Another major concern of hers is the steep slopes and the drainage that will come down onto her property. Ms. Smelter is very concerned how that will affect her wetland, which she has been very conscientious about conserving. Ms. Smelter stated that one of the reasons it was denied in 2004 was because of the effect on the environment.

Ms. Smelter requested a thorough site review and questioned how close it will be to her property line. She stated that back in 2004 it was very close to the point that a 100-year-old stone wall was damaged; she used to have pictures but could not locate them for this evening. She reported that her do not trespass signs were taken down as well. She stated the stone wall was destroyed and thrown on her property and suggested that it was likely never rebuilt, though she can not walk up there to see as she is too feeble. Ms. Smelter expressed great concern about erosion and how that will affect the stream. She would like to know where all of this will drain to and the erosion that will likely take place. She stated she does not want any variances allowed on the property either. She added she is concerned about the affect this will all have on the environment. That property has not been built on since 2004 because of their petition and she urged the Conservation Board to take a close look at it.

Chairman Galezo asked Ms. Smelter where her property is located in relation to this parcel. She stated she is on route 9, the one with the steep driveway. Ms. Martin stated she is on the left side if you're going south, south of Indian Brook and the Bird & Bottle sign. The Chairman stated the board understands her concerns and are going to go out to the property and take a look around.

Mr. Watson reported that the subdivision was ultimately approved and filed. This lot is at the very bottom, right behind the old schoolhouse, it's lower. He suggested the board take a walk there when they go out to visit the site. If you know the driveway, you will see that land is higher. Mr. Watson explained Ms. Smelter is talking about the next lot over, not the Wahlman's lot. That is where the original trouble occurred. Mr. Galler stated this is a different, approved lot. Mr. Watson stated you will see there is a very large retention pond, there is a volume of water that is held there to go in and then it fills up and it spills over into a raised catch basin that then meters it out. Respectfully, he stated, this speaker is simply not in the right spot with regard to

the relation of this particular property to her house and noted when the board makes their visit, they will see that.

Ms. Smelter stated that may be the case but they are abutting the old schoolhouse which belongs to the Garrison School. The schoolhouse deteriorated and fell down but where that used to be belongs to the school and that should be taken into consideration as well. Mr. Watson clarified, it was actually located within the right-of-way of route 9, which he can demonstrate to the board if they would like to see that.

Mr. Galler asked in anything other than the wetland boundary is currently staked out on the property. Mr. Watson stated nothing is staked on the property now. Mr. Galler suggested it would be a help to the board when they go to visit the site if things were staked out, at least anything within the wetland buffer, the driveway, garage and expansion fields.

Chairman Galezo suggested they briefly explore the idea of a 3-bedroom septic system. Frankly, Mr. Watson stated, you don't build a 3-bedroom in Garrison. He stated they would explore a 4-bedroom which will get them part-way there and preserve some of the value. Ms. Martin noted they are building a 3-bedroom house. The Chairman asked if they have a rough set of plans so the board could see what the house is going to look like. Mr. Watson stated they would send an email containing such. Chairman Galezo stated if that is the case, it is only a 3-bedroom house, they may want to consider the balance between resale value, 3-bedroom versus 4. Mr. Wahlman explained the original Health Department approval was for a 5-bedroom house. The Chairman explained that the size of the septic system is designed to accommodate 5-bedrooms; if you reduce it to 3 that will go down by 40-50%. Ms. Martin suggested that may allow you to change the location on the property so as to not infringe on the wetland buffer as much. The Chairman stated that the septic and the reserve together are bigger than the driveway, the house and the garage combined. He suggested it is something to think about.

Mr. Garfinkle stated they would coordinate a site visit to the property as soon as possible.

Old Business (continued)

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 at Surprise Lake Camp. Mr. Williams stated, relative to the work they're doing down on the access road, the only thing he can report back is that they received the minutes from the last meeting and one of the things on their list was to work with Mr. Gainer to resolve any concerns or comments he might have. He stated they reached out to Mr. Gainer and it is Mr. Williams understanding that he has spoken to Mr. Garfinkle and he does not have any more comments on the stormwater calculations that they have done. He stated he is aware there is more to talk about but that is where his office starts and stops on the project.

The Chairman explained he would like to go back a few meetings and stated 2 meetings ago there were a few things that the board had asked them to clarify regarding the mitigation with the pipe and all that. Then last month's meeting a different representative from Insite was in attendance and she seemed to have no knowledge whatsoever of those questions. Chairman

Galezo questioned if there were answers to those questions this evening. Mr. Williams responded that he read through Ms. McKenzie's notes and believes that we have already discussed a couple of those items. One of the questions was did they incorporate all of the area in their stormwater calc's, and the answer is yes, which Mr. Williams had indicated at that prior meeting. He stated the takeaway from that meeting was that Mr. Gainer was supposed to verify that. Mr. Williams clarified they had first submitted that information to Mr. Gainer back in April and had followed up with him but Mr. Gainer had surgery so things just moved slowly.

Mr. Williams stated one of the main takeaways Ms. McKenzie brought back was the question of if that one pipe is sized to convey all the flow from the uphill areas. At the meeting he was at we had talked about the diversion being there and was that accurate to size. Based on the drainage area it is; it's a standard erosion control practice they put in just to do a diversion. Chairman Galezo stated he remembered discussing, at the bottom of that pipe that goes off to the grass swale, there was some more detail needed about that, something to beef that up a little bit more. Mr. Williams explained that 2 months ago the mitigation plantings were not in there and that was in the minutes that he read just a week or 2 ago. Mr. Garfinkle stated that was the major thing the board was focusing on, any additions to the conveyance from the outflow of the originally designed system to the connection to the stream.

Mr. Williams stated when Ms. McKenzie was here last month there was some talk about what the difference is between a bioretention filter versus a swale as far as treatment and stated he can talk a little bit about that if the board would like. Chairman Galezo asked if he was referring to the one they had just spoken about because they had asked questions about the pipe that comes down next to the driveway, how that was functioning and Ms. McKenzie was able to offer answers to that, haltingly. The Chairman stated he believed those questions had been asked at the prior meeting. Mr. Williams stated those questions were asked at the meeting that Ms. McKenzie was at. He stated the design here is a water quality swale. Chairman Galezo disagreed and stated the questions had been asked at the meeting prior to Ms. McKenzie and expected her to be able to give those answers at the following meeting, that is where the board's frustration arose. Mr. Williams stated he designed it and is about to answer those questions now.

Mr. Williams explained that this here (using diagram) is a NYSDEC water quality swale. It does have a filtering component into it. It's designed to do a 30-minute detention time water quality volume, which is a very specific volume that they calculate. This was constructed as designed with that filtering and that underdrain in it. It does have an additional standpipe, again to let that overflow bypass. The other thing Ms. McKenzie came back with in her notes from the last meeting was, looking at this area down here (using diagram), should it continue to be a swale or should it be another type of practice. Based on the flatness of the land there, Mr. Williams suggested keeping it a swale; the swale with check dams will encourage infiltration. Putting in an engineered soil media like a bioretention mix, which Mr. Williams reported he has built a few of, in an area like this he would not recommend because the soil media that New York State specs is so high in silt it actually precludes infiltration. Also, because they're not sitting up in a big, flat fill section or an area where he believes there is soil suitable to infiltrate, basically flat and there's a watercourse, and he's not willing to bet that going in with 2.5-4 feet of media, it's going to have a slower infiltration rate than what's there, it's not going to get them where they want to go. Chairman Galezo stated he did not think they were discussing anything that extreme, just

some plantings or a rain garden. Mr. Williams explained a rain garden is similar to bioretention whereby it's a cross-section that consists of usually a gravel underdrain layer, a shallower depth of engineered media, a sand/topsoil mix 12-18 inches deep, and then a planting plan on top. He stated he would not remove the (inaudible) soils here because he doesn't think they'll pick up any additional ability to infiltrate water. Mr. Williams suggested the check dams are really going to give them the best bet to push any water into the ground that would go. As far as mitigation plantings, this drawing has not yet been revised. Mr. Williams stated he told Mr. Garfinkle this a few weeks ago; he wanted to see the meeting minutes from the meeting he was not at and any comments the board had from the site walk. He also wanted to wait for Mr. Gainer to sign off on this. He stated they were not even going to attend this evening because he does not want to keep coming before the board with unanswered questions; he wants everything assembled, revised & resubmitted.

Chairman Galezo asked what questions, if any, the board has about where the new pipe terminates. Mr. Deos reminded everyone there was a walkover that the board was concerned with and wanted to know how that was going to be mitigated. Chairman Galezo recalled Mr. Solmsen had suggested the camp would find another way for the campers to get to that area. Mr. Williams reported as of tonight there is no solution. He stated that was in the minutes from last month's meeting. Mr. Solmsen questioned if the board was seeking a new pathway in or some sort of structure. Mr. Williams stated this goes back to a few meetings ago when they had talked about the possibility of eliminating that stream crossing. He recalled that it was ultimately agreed upon that they could keep using that crossing while recognizing that it is on the camp's long-term plan to replace. At that meeting Mr. Solmsen had said, if it is an issue, they could find another path to get the kids to that field. Mr. Williams asked Mr. Solmsen if it is still traversable today. Mr. Solmsen replied it is. Chairman Galezo questioned if there is any other access to which Mr. Solmsen replied there is not. Mr. Williams reported he has not been to the site in a month or 2 so he has not seen it as of late.

Mr. Garfinkle suggested the applicant just needs the opportunity to answer to any of the comments from last month's meeting or questions this evening and have attended tonight's meeting in good faith. He suggested the applicant and their representatives keep an open line of communication with the board.

Mr. Repetto questioned what ever happened with the logging issue that had been discussed. Mr. Garfinle explained they are waiting on State Parks to issue a letter to the camp in terms of how they are going to handle the situation. Once that happens there will likely be some sort of coordinated effort to mitigate the situation.

Hudson Highland Reserve, Route 9 & Horton Road

Representatives of the applicant were in attendance but Chairman Galezo made it clear that the board was not expecting any sort of presentation; the matter is on the agenda so the board can discuss generating a comment letter to issue to the Planning Board as part of the written public comment period following the public hearing on the DEIS that was submitted.

Chairman Galezo explained that both Mr. Baker and Mr. Galler had put together some comments and suggestions and questioned if either would like to talk about them specifically or if any other member has any additions. He stated Mr. Baker and Mr. Galler would put together the final letter, encompassing all the comments of the other board members, to submit before the deadline on July 8th. The Chairman suggested a bullet point list so it is nice and simple.

Mr. Galler suggested it be kept very simple and stated many of the comments are somewhat similar to that of the Hudson Highlands Land Trust. He stated there are a lot of missing studies in terms of wildlife and water quality issues that were either old, not necessarily extensively done, or, basically, the project started with a certain amount of parcels and started adding more and more parcels compounded with the fact that some of the studies were done for a soil mine and not a subdivision. Mr. Galler continued, then we go into the idea that included within the conservation easement area there is this 11 acre horse farm, and as it is currently designed, it should not be within that area because it is, if it is not industrial agriculture, high density, which is not within a conservation easement.

Mr. Galler explained that Mr. Baker went a tremendous amount into the Homeowners Association which really segues into a bigger picture which is- best practice now, in all forms of urban planning, is basically to avoid the after the fact approval conditions, which the board has seen in certain instances where all of a sudden we're trying to fix something that, if it was scoped out properly, would not be there. Chairman Galezo stated a perfect example is the issue of the Health Department approving a septic with no input from the town regarding the location of intermittent streams and so on. He suggested the Conservation Board should recommend that when the septic is fleshed out, before they get approval from the Health Department, that this board has a chance to review it.

Mr. Galler stated there is still the issue that, essentially, they're fragmenting the property more than is necessary; a huge amount of the building is within an area that, within the applicants DEIS, is looked at as areas of moderate sensitivity or moderate value. Moderate value areas are important. The Chairman added, especially when it's connecting 2 highly valuable areas. Mr. Galler reported there has also been no adequate search for vernal pools, which is definitely problematic.

Ms. Martin stated she was very interested in the Hudson Highlands Audubon letter about migratory birds and habitat and flyway and how this could affect them and other species of special concern.

Mr. Garfinkle stated a lot of his comments are reiterations of comments that have already been presented previously. He stated a lot of it, in his opinion, also comes down to logistical planning and actually figuring out how they are going to accomplish what they're setting out to accomplish when it finally gets decided upon so that they fit the town's regulations and state regulations and we don't run into a situation where people are saying sorry after the fact.

Mr. Galler stated something he mentioned on a personal level at the public hearing was that he did question part of the economics. He questioned what happens if all of a sudden, they're only able to sell 5 houses and you have this equestrian center that's built but all of a sudden there's not

enough horses. He asked the other board members if that is something they would like to discuss in the memo to the Planning Board because if there aren't the funds to maintain or finish it then it becomes a headache for the town.

Mr. Garfinkle suggested the CB should be sure to prioritize the points it feels are most important if it is going to be a short, straight forward letter that is easily read. He suggested they make sure that the things that could get potentially muddled by some of the more long-term thinking ideas are maybe not in the foreground, so the things the CB wants them to take a really hard look at they spend the time on.

Mr. Galler questioned what every member's key points are. Ms. Martin stated she has a real question about this being a conservation subdivision that, by its very nature, requires a conservation easement. She explained it is her understanding that there is no qualified conservation organization that is willing to take that easement that has stepped forward. She added it is her understanding that the Town does not want to take on this easement. Ms. Martin questioned how you can have a conservation easement with no one to hold that easement. She stated that for her, that is a non-starter for this project; she doesn't see any of this happening without that key element. Mr. Galler explained they could put that in the memo but that ultimately goes onto the Planning Board and the Town Board. He stated the Hudson Highland Land Trust made a very important recommendation that whoever the easement holder is should be an accredited land trust.

Mr. Repetto reported one of his concerns is about the fact that the horse area is considered agricultural and questioned how that is possible given the nature of the activities to take place and the number of arenas there. He stated it seems as though this is going to be a continuous operation activity. It seems to be more of a commercial operation that goes well beyond what was envisioned when this code was written. Mr. Repetto stated he could not see how that is consistent with a conservation easement.

Chairman Galezo recalled that the letter from HHLT touched on the distance, 750 feet, where light and noise and so on starts to disturb an undisturbed forest. Mr. Galler stated it is called the edge affect. The Chairman stated it just seems like they're taking down that whole piece of forest; they're doing exactly what should not be done by putting the paddock right where they're putting it. Ms. Martin suggested it is the same with the houses surrounding Ulmar Pond.

Mr. Galler stated what bothers him with the pond is that the houses are supposed to be a minimum of 150 feet from the pond and asked Mr. Watson, who was in attendance, if that was correct. Mr. Watson stated the buffer is 140 but you also have the setbacks from the rear line. Mr. Galler stated the applicant is insisting that they need the houses around the pond because they're premium lots, which would make sense if you had access to the pond from your property and you had visual viewshed, but the bottom line is that half the year you're not going to see the pond. Even in the winter you're not going to see a lot of it, so that is something he questions. He feels the majority of those houses should not be around the pond as that is one of the more significant areas of biodiversity in the lower part of the property. Ms. Martin stated the only way one would see the pond over all four seasons is if you clear cut or selectively cut. She stated it is somewhat puzzling that they will be the premium lots but they won't have the view that one

would expect. Chairman Galezo stated another thing that struck him is that if you look at the maps of the comparison of the traditional subdivision to the conservation subdivision, they look largely the same. Ms. Martin suggested that to her, the traditional subdivision would cause less disturbance and the conservation outcome may very well be better because the 40-horse equestrian center would not be allowed.

Ms. Martin suggested the intention of this law was to provide developers with an option that is more environmentally palatable and positive for the overall town while still providing people an opportunity to develop their land for the highest and best use. She continued that she feels like this plan, from the beginning, has maybe been within the letter of the law but far from the spirit of the law, for many reasons. She stated this is not the precedent that should be set for this kind of subdivision. Ms. Martin stated there is very little difference in the plan from when this began roughly 5 years ago until now. Mr. Galler stated it is one of the things the Conservation Board has felt as a board, and was well put by the conservation biologist HHLT had hired, that rehashing existing data, particularly that is incomplete and potentially flawed because it was developed for different reasons, is not answering a lot of what was in the scoping document before the DEIS was put together. Mr. Galler suggested the DEIS is just missing a lot of necessary material.

Chairman Galezo stated there was a comment in one of the letters sent in by the public which stated that by right there should only be 10 houses, for a traditional subdivision. Mr. Repetto stated it depends on the calculation used. The Chairman stated if they are only allowed 10 houses in a traditional subdivision and the town is giving them 24/25 houses in exchange for some really great conserved land and so on, then the whole thing makes sense. Ms. Martin stated the exchange right now is not equitable in terms of conservation value. Chairman Galezo stated although Mr. Watson has explained it numerous times, he does not really understand the yield calculation. Mr. Galler stated that 10 houses was looking at single lots in open development areas where you can put 4 or 5 lots on a private road and that's how you come up with roughly 10 houses.

Mr. Garfinkle stated that where the board gets stuck a lot is understanding the assurances that they're setting forth, or even mitigatory efforts after the fact kind of in compensation for the development, that are laid out on paper, like the HOA, the conservation easement, the lake management plan, things like that, which obviously the board is not comfortable with as they understand it now through this document, and suggested that may be something that needs to be built on. Mr. Deos stated they essentially seem like empty promises, it's on paper but there are no assurances that it will happen or that there is any recourse if it doesn't happen. Ms. Martin suggested it's also setting up the conservation organization that would be responsible for holding that easement for failure, if the HOA goes adrift or the equestrian center goes bust because there are already several others in the area. Mr. Repetto suggested the horses won't be coming from the area. Mr. Deos stated a certain number of them would be from homeowners as documented. Mr. Repetto stated it is his understanding that people would be coming and going for shows and such so there would be a minimum number of horses there all the time but would be fully staffed and maintained with 40 horses. Ms. Martin stated, that is only if it is successful. If it's not and they go out of business then it would become a huge problem. Mr. Galler stated the plan they are

suggesting is 30 horses being boarded there and 10 being owned by the stable for lessons and such.

Mr. Baker stated this proposal describes something that is going to run like a Swiss Watch, if everything goes right. The problem is, what happens if everything doesn't go right? He stated there is no real enforcement mechanism provided. Mr. Baker stated there is a provision that says the holder of the conservation easement can bring a lawsuit, but lawsuits can take a long time, cost a lot of money and, depending on what the problem is, may be a very inefficient remedy. Second, he stated there is an assumption that the HOA will act with strict carefulness in enforcing the rules and regulations because it's in its enlightened self-interest to do so but the problem is people don't always do what's in their enlightened self-interest and it's very unclear what the remedies are. Mr. Baker stated this board has had trouble with at least one subdivision and a HOA that can't even manage to keep the drains working properly and he believes it's a reflection of the fact that HOA's are manned by volunteers. He stated that most of them try to do the right thing but there can be a failure of institutional memory, lack of time retention or they can decide they don't like what it was that they were supposed to do. Mr. Baker reported he was disturbed at the fact that all the rules that seem so strict can be changed at any time by the HOA. He was also disturbed by the representations in the Environmental Impact Statement that horses could only be ridden in the equestrian center and buried in the fine print throughout the documents in the appendices were exceptions to that; horses can be ridden anywhere on any street or road in the subdivision and they can also be ridden on the historic stone highway. Mr. Baker suggested it defies human nature to think that we're going to tell the homeowner's that they can go riding on the streets and the stone highway but expect them to never to go for a canter in the woods. And, if they do, it is not clear what happens and who is going to enforce it.

Mr. Baker stated he believes there are ways to make this more attractive as a conservation subdivision. He stated he thought the HHLT letter was enormously thoughtful and had a lot of basic science that seemed to be very good. He suggested if the developer were willing to work with organizations like HHLT, take their comments and negotiate something, it would be good. There is probably nothing that is going to satisfy everyone; this needs to get to a point that everyone can live with, a balance. As currently configured that balance has not been achieved. Mr. Baker stated it is unclear to him whether Philipstown would be better off with this than it would be with just a conventional subdivision because as he sees it, it does not currently comply with the spirit of the conservation subdivision law, though it may comply with the letter of the law.

Chairman Galezo stated at this point Mr. Galler will work on compiling all if these comments into a letter to get out to the Planning Board before the deadline.

Mrs. Martin moved to adjourn the meeting and Mr. Baker seconded the motion. All were in favor and the meeting adjourned at 8:34 pm.

Date Approved: _____

Respectfully submitted by,

Tara K. Percacciolo



August 2, 2019

Town of Philipstown Conservation Board
238 Main Street, PO Box 155
Cold Spring, NY 10516

RE: Surprise Lake Camp
382 Lake Surprise Road
Tax Map # 27.-1-1.1

Dear Chairman and Members of the Board:

Enclosed please find ten (10 copies) of the following items:

- Drawing SP-2.2.1 "Grading and Drainage Plan – Lower Road Improvements", last revised August 2, 2019.
- CD containing PDFs of Submission. (1 each)

The above referenced documents have been revised in response to the comments received at the May 21, 2019 and July 2, 2019 meetings. Relative to the comments received we offer the following:

- 1) It is our understanding the stormwater calculations were reviewed by the consulting Town Engineer the design was found acceptable.
- 2) Relative to the existing stream crossing in disrepair, it is proposed to remove and replace the existing culverts. This location has been determined to be the ideal location for the crossing. Currently several options are being explored for the replacement weighing cost, overall disturbance and longevity. We hope to have an additional update on the type of crossing proposed at the Conservation Board meeting.
- 3) The board has suggested the use of a bioretention practice, or other similar practice with natural pollinators, in lieu of the proposed grass swale. Bioretention filters have a cross section that consists of an underdrain, filter media, gravel and mulch with a minimum depth of 3.75 feet. If a bioretention filter were to be installed it would require restoring the piping network recently proposed to be abandoned in order to daylight the underdrain. In addition, the bioretention filter will the runoff to the stream via the underdrain as opposed to encouraging infiltration. Based on the low imperviousness of the contributing area, we are proposing to establish the former grass swale with a Native Steep Slopes Seed Mixture consisting of natural pollinators. The check dams will remain. We believe the new planting scheme coupled with the check dams will offer a more suitable aesthetic and functional appearance while maximizing flow through filtration and infiltration. See drawing SP-2.2.1 for further clarification.
- 4) The board had requested clarification on the access route to the fields. Drawing SP-2.2.1 has been revised to show the existing access to be removed and replaced. As indicated in response 1 several alternatives are being explored and we look forward to providing the Board with an update.
- 5) The board had requested clarifying and simplifying the language used for the Permanent Stormwater Facilities Maintenance Schedule. The language has been revised on Drawing SP-2.2.1.

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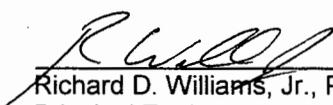
- 6) Once the type of culvert crossing is selected our office will need to survey the area and develop more detailed drawings for both your Board, and the NYSDEC. Based on the timing for permitting it is likely the culvert crossing will need to be constructed next year. The balance of the improvements can be completed at any time once approved by your Board.

If you have any questions or comments regarding this information, please feel free to contact our office.

Very truly yours,

INSITE ENGINEERING, SURVEYING & LANDSCAPE ARCHITECTURE, P.C.

By:


Richard D. Williams, Jr., P.E.
Principal Engineer

RDW/jwm

cc: B. Solmsen (with enclosures)

R. Gainer, P.E.

Insite File No. 17166.100