



**TOWN OF
NORTH CASTLE
CONSERVATION
BOARD**

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**THE 459TH REGULAR MEETING OF THE NORTH CASTLE
CONSERVATION BOARD
ZOOM MEETING
JANUARY 19, 2021
7:30 P.M.**

Corrected

PRESENT: Adam Barnett; Craig Benedict; Jane Black, Co-Chair; Andy Block; George Drapeau; John Krupa, Co-Chair; José Berra, Town Board Liaison; John Kellard, Kellard Sessions Consulting; Matthew Norden, Kellard Sessions Consulting.

NOT PRESENT: All members were present at the meeting.

GUESTS: Nathaniel Holt represented 2 Musket Court
Juliana Alzate and Steven Velardo, homeowner, represented – 164 E. Middle Patent Road
Samantha LoVerme represented- 360 Main Street
James Ryan and Anthony Nester- represented 1 Kent Place
Andrew Monaco, Nathaniel Holt, and Hugh Harris, homeowner, represented – 9 Sterling Rd. N.

I. MINUTES: Minutes of the regular meeting, which was held on November 17, 2020, were approved as corrected. The motion was made by Jane Black and was seconded by Craig Benedict. All were in favor.

II. LAND USE: ACTIVE- 1. 2 Musket Court – Nathaniel Holt represented this application, which is located at 2 Musket Court. Mr. Holt shared the plan via Zoom to the Board. He explained that the setbacks are near the pond. Andy Block asked where the location of this road is as he was trying to find it on Google Maps. Ms. Black explained that Musket Court is located off Brett Lane. Mr. Holt said that at the last meeting this project was discussed and he wanted to address the comments made in the memo that was sent. Ms. Black informed Mr. Holt that this application was not presented to this Board at a prior meeting. She explained that this was the first time that this Board was discussing this application. Mr. Barnett and Mr. Krupa agreed with Ms. Black's statement. Mr. Holt replied that he would present the application as if it wasn't presented before. He showed the Board the existing septic fields, house location and an existing deck which are located at the top of the plan.

Mr. Holt said that the reason this application is before this Board is because the proposal encroaches into the wetland buffer. He explained that most of the driveway and a portion of the house are in the buffer area. He said that the proposed pool corner encroaches into the buffer. Mr. Barnett asked Mr. Holt to zoom in on the pool location on the plan.

II. LAND USE: ACTIVE – 1. 2 Musket Court

Mr. Holt complied with the request. Ms. Black said it looked like a very small area of disturbance is located within the buffer. Mr. Krupa asked Mr. Holt to show the Board the buffer line. Mr. Holt showed the Board the buffer line and the setback line on the plan. Mr. Krupa asked what the quantity of the limit of disturbance is. Mr. Holt replied that it was approximately 5,500 sq. feet.

Mr. Krupa asked what the proposed mitigations are for this application. Mr. Holt replied that 6- Cultecs would be installed at the rear of the property. He added that they have not done soil testing yet. Mr. Holt said that mitigation plantings would be installed at the bottom sloped driveway. He added that he was planning on installing a rain garden at this location. Mr. Holt said he hadn't gone into detail on the rain garden because he wanted to see how it would be received by the Boards. He added that the rain garden would treat any runoff before entering the pond. Ms. Black said that there needs to be quantification of the disturbance and the mitigation placed on the plan. Mr. Holt said that he was confused. Ms. Black said that these figures and all areas of disturbance and mitigation need to be placed on the plan. Mr. Krupa reiterated that the Board needs to see a quantification of the square footage of the mitigation. Mr. Holt replied yes, this would be done. Ms. Black asked the Board if they thought a site walk would be useful. The Board replied yes.

Mr. Krupa referred to a memo sent by Kellard Sessions Consulting which states that a mitigation plan is needed which should include the amounts of the disturbance and mitigation. Mr. Krupa asked for the septic system to be delineated on the plan. He added that the plant species need to be placed on the mitigation plan. Mr. Holt agreed. Ms. Black asked if any trees are proposed to be removed. Mr. Holt replied no, there would be no tree removals.

2. 164 E. Middle Patent Road – Julianna Alzate and Steven Velardo, homeowner, shared the plan with the Board via Zoom. Ms. Alzate showed the Board the wetland buffer line, which she had procured from GIS Maps. She said she presented to the Planning Board in November and this GIS line was used for that presentation. She said she used that buffer line to offset any disturbance by 100 feet. Ms. Black asked Ms. Alzate to show the buffer line to the Board. Ms. Alzate read aloud the town code which states that the buffer line "shall be expanded to include the lesser of either 150 feet or the entirety or the area of 25% or greater slope which drains down towards the wetland". She said that based on that language she used the buffer line at the top of the ridge. Mr. Barnett asked Ms. Alzate to explain this in laymen's terms. Ms. Alzate said that beyond the top of the ridge is a slope that is 25% or greater towards the wetland. She said that the wetland is on the neighboring property on the east side. She added that she is using the ridge as a buffer limit. Mr. Block asked if the ridge is less than 100 feet from the wetland. Ms. Alzate replied yes. Mr. Block said that this was an interesting interpretation and didn't think the Board had ever encountered this. He added that it seemed that there is a decrease in the 100 foot buffer. Ms. Black said yes, we have not had a case like this before, but we have never seen a decrease in the buffer line due to a steep slope.

II. LAND USE: ACTIVE- CONTINUED – 2. 164 E. Middle Patent Road

Mr. Barnett asked if the elevation is above or below the disturbance. Ms. Alzate said that the disturbance is above the disturbance. Mr. Barnett said that he felt that this was a critical point. Ms. Black said she understood what Mr. Barnett was stating, however the Board has never seen a decrease in a buffer because of a steep slope. Mr. Krupa read aloud the Town Code section again to the Board. He said he believed that the applicant would like to use the steep slope as a buffer line, but this doesn't eliminate the 100 foot buffer line. Mr. Berra said it may be a matter of contacting the Town Attorney. Mr. Barnett said logically, looking at the picture, the entire disturbance is on the top of that wall at a high elevation and any runoff would not run over the top of the walls. Mr. Block said that it could be ground water issues. Mr. Barnett thanked Mr. Block for his reply. Mr. Krupa asked Ms. Alzate if she would be willing to use that line as the 100 foot buffer. She added that the proposal includes tree removals in this area and various mitigation plantings. Mr. Krupa said if the buffer line is moved it would include more than just the trees. Ms. Alzate agreed. Ms. Black said that Kellard Sessions Consulting should verify the wetland boundary line. She added that the Board can't quantify the wetland disturbance without knowing where the buffer line is. Mr. Velardo, homeowner, said that they would try to get the neighboring property to approve that since the wetland is on that property. John Kellard said that technically, the applicant needs to flag the wetland boundary and buffer. He added that if the adjacent property owner gives permission to flag the boundary then our office can verify the wetland boundary. Mr. Krupa asked Mr. Kellard and Mr. Norden, Kellard Session Consulting whether the applicant needs to contact the neighbor to enter that property if the top of the slope is used as the buffer delineation line. Ms. Black stated that the wetland boundary should be confirmed.

Mr. Velardo asked for confirmation from the Board as to what his next step should be. Mr. Velardo said that he had spoken to Joseph Cermele, Town Engineer, and they determined that the steep slope runoff would not enter the neighbor's property therefore the GIS map could be used as a barometer without having to disturb the neighbor. Mr. Velardo added that this is fine, but he had gotten conflicting directions and wanted to clarify. Ms. Black said that this Board had never heard this information from the Town Engineer. She added that the town code does state that any disturbance should be 100 feet from the buffer line. Mr. Kellard said that the town engineer may have come up with this interpretation because the buffer demarcation would not rise above the wall and drain back into the wetlands. Mr. Kellard added that yes, you need a wetland permit, but the setbacks would not really impact the adjacent wetlands. Mr. Kellard said that this is the way he has always interpreted it, that you need to be within 100 feet of the buffer. He added yes, from a practical point there will be work within the area but the runoff will not have a lot of impact on the wetlands. Mr. Velardo asked if it could be agreed upon that the original buffer line could be used or do they need to establish the wetland boundary. Mr. Krupa said that you have to establish the wetland line and then the buffer line. Ms. Black said the Board does give consideration to impacts on the wetland and that this proposal doesn't seem to impact the wetland.

II. LAND USE ACTIVE- CONTINUED – 2. 164 E. Middle Patent Road

Mr. Krupa referred to the memo issued from Kellard Sessions Consulting, which states that the applicant will need to update the wetland boundary accordingly. Mr. Kellard said that the applicant does not have access to enter the neighboring property to survey it, he suggested using the GIS Maps to determine where that boundary is. He said that if this is the route taken, the aerial information should be put on the plan along with the soil classifications. Mr. Kellard said the well location is typically determined by the soil conditions. He reiterated that the applicant does not have access to the adjacent property. Mr. Krupa asked if the adjacent property owner allows access to the applicant they will need to flag the wetland. Mr. Kellard replied yes, they would need to flag the wetland and that would determine the wetland buffer. Ms. Black asked what the applicant needs to do now. Mr. Krupa said that the applicant needs to see if they can access the neighboring property to see if the wetlands can be flagged so that the Board can determine what buffer we are “playing with”. He added that the applicant needs to add a key to the plan that includes the buffer disturbances with quantification and two to one mitigation to meet the town code. Ms. Alzate showed the key to the Board which was based on the buffer that they were using. She said there would be one tree removed and about 550 sq. ft. of mitigation.

Ms. Black asked John Kellard if the wetland buffer line is accurate. Mr. Kellard replied no, it has not been verified. Ms. Black said the applicant needs to get the wetland verified and once that is done the wetland buffer line can be established. Mr. Velardo said he would contact his neighbor to get the wetland flagged so that he can establish the wetland buffer. He asked the Board if this was the next step he should take. Mr. Krupa said yes, the wetland needs to be verified. Mr. Velardo apologized for taking up the Board’s time and added that he was confused, and thought the GIS Maps wetland line sufficed. Mr. Krupa asked Mr. Kellard to clarify whether the neighboring property will allow access. Mr. Kellard was temporarily unavailable due to technology issues. Mr. Norden said that Westchester County has information on different soils and vegetation on file. He added that if the GIS Maps boundary is used, then the aerial and soil information must be placed on the plan. Mr. Norden added this is not as accurate as we would like; but if we compile all of the data including the aerial and different soil types this would create a larger picture.

Mr. Krupa said that there are two ways to go and asked if one is more preferential than the other. Mr. Kellard said that we always require it to be flagged and surveyed. But, if the neighboring property does not allow access then the GIS system could be used with additional information added to the plan. Mr. Krupa asked Mr. Velardo if this makes sense. Mr. Velardo said yes, but thought the GIS maps were going to be used. Mr. Kellard said that Mr. Cermele indicated to him that he was under the assumption that the applicant did not have access to the property. Mr. Velardo, said yes, it’s not his property and because of the topography and the height he thought this was the route that he was supposed to follow. He asked if we could agree on the GIS boundary to be used as he has already invested the time and effort. Mr. Velardo said that that any information needed could be added to the plan.

II. LAND USE ACTIVE: CONTINUED – 2. 164 E. Middle Patent Road

Mr. Kellard said he could not speak for Mr. Cermele, but he thought that because of the ridge and access, the GIS route was discussed. Mr. Velardo said there was a “disconnect” because Mr. Hildenbrand had resigned from Kellard Sessions Consulting and Ms. Alzate spoke to Mr. Cermele. He said that he would do whatever is needed to continue, but said he would like to continue with the GIS map route as that is where all of his work and effort have been spent. Ms. Black said that this is up to Kellard Sessions Consulting, and the Board needs to have the wetland boundary confirmed. Mr. Kellard said that a discussion could be held between Matt Norden and Mr. Cermele to make sure that all were on the “same page” on the Planning and the wetland side. Ms. Black suggested that the applicant discuss this with Kellard Sessions Consulting. Mr. Krupa said the Board and Ms. Alzate are at an impasse until the buffer line is determined.

Mr. Velardo informed the Board that this site is within a scenic route -scape and needs site plan approval. He asked if the Board could provide a recommendation to the Planning Board. Mr. Krupa replied unfortunately no; we don’t have enough information to give that at this time. Ms. Black said that the buffer line needs to be determined and a quantification of the imitation and disturbance in the buffer and a quantification of the planting species being proposed. Mr. Verlardo asked the Board to comment on the planting plan submitted. Mr. Krupa said that whatever is disturbed needs to be meet the town requirements. The buffer line was briefly discussed. Ms. Alzate asked if replacing the patio is still considered disturbance. Ms. Black and Mr. Krupa replied yes, disturbance is disturbance. Ms. Black said the Board likes to see native species plantings and invasive removals can be part of the mitigation calculations. Ms. Alzate said that the proposed application includes native species plantings. Mr. Velardo said he had a clear path and he and Ms. Alzate thanked the Board.

3. 360 Main Street – Samantha LoVerme represented this application, which is located at 360 Main Street, known as the Sunoco Gas Station. Mr. Krupa asked the Board if everyone is familiar with the site. The Board replied yes.

Ms. LoVerme stated that a stream is located beside the existing gas station and the proposed application is within the 100 ft. buffer. She added that half of the site is within the buffer. She shared the plan with the Board via Zoom. Ms. LoVerme said that the applicant would like to convert the building into a convenience store and will be refurbishing the parking area in the southern portion of the site. She added that most of the renovations would take place inside the building. Ms. LoVerme said that the proposal includes the addition of mitigation planting on all four corners of the site and on the southern corner of the site and between the town owned property and this property. She said that the property will have a change in use; which means vehicles will no longer be serviced on the site. She added that all oil storage will be removed from the site which could potentially enter the stream. Ms. LoVerme added that runoff reduction would be reduced from entering the stream.

II. LAND USE ACTIVE: CONTINUED – 2. 360 Main Street

Ms. LoVerme said that while they have proposed mitigation, there is not enough space to meet the town code's 2 to 1 requirement on the site. She referred to a comment from Kellard Sessions Consulting memo which stated that off-site mitigation could be done or a fee in lieu.

Andy Block said that this was not under this Board's jurisdiction; but asked Mr. Berra if there was any discussion among the Town Board to address the fact that there would no longer be any vehicle repair shops in the Town. He added that there would no place to get vehicles' oil changed or State vehicle inspections. Mr. Berra said yes, he argued it pretty strongly with the other gas station changing its use also. He agreed that it wouldn't be a good thing to say the least. So, in short, Mr. Berra said the answer is yes, and he thought it would not be a good idea to have no auto repair place in town. Mr. Block asked if this has been decided. Mr. Berra said the Town Board has voted on this application. He added that he thought he opposed it during the vote or at least during the discussions. Mr. Berra said that he thought the footprint of the building had changed. Ms. LoVerme replied no, the footprint will remain the same. She stated that the existing garage doors will be removed but most of the disturbance is in the interior and the façade. Mr. Berra asked if the building was angled. Ms. LaVerme replied no. Mr. Krupa said that this was not under our purview, but added that Mr. Block brought up a good point. Mr. Berra said he understood that the Agenda has to move along, but thought that it wasn't a bad idea to evaluate and have background to understand the project a little more. Mr. Krupa said he understood.

Ms. Black asked about the double row of parking on the southern side of the plan. Ms. LoVerme said this is owned by the Town and is being leased by the current owner. She said she believes that the Town said they would like to keep it and use it as storage for vehicles. She added that a gate will be added for emergencies but the Town does not want this removed. Ms. Black asked if it would be demarcated. Ms. LoVerme said that there is a property line at this location. Mr. Berra asked if the applicant is going to be using that space. Ms. LoVerme replied no, it would be used by the Town. Mr. Berra said that the history that Mr. Block was looking for was discussion that took place regarding the other gas station across the street. Mr. Krupa said yes, he figured that. Mr. Krupa referred to a memo submitted by Kellard Sessions Consulting which said that there would no longer be vehicles serviced and possible oil leakages. He added that he thought that the Board could all agree that vehicles leak; whether it is oil or anti-freeze. He questioned if the applicant would be willing to install a stormwater management system, as suggested in the Kellard Sessions memo. Ms. LoVerme asked if the Board was looking for an oil/water type separator. Mr. Krupa replied no, he was thinking of an infiltration system that could remove the contaminants before the runoff enters the brook. Ms. LoVerme replied that an infiltration system is not possible in this location. John Kellard said that this was suggested as a use for the fee in lieu funds as Kellard Sessions Consulting thought it would be better to improve the water quality instead. Ms. Black asked if the cost of the system was comparable to what the fee is. Mr. Kellard replied that this would be calculated and could be used for a storm sceptor or deeper catch basins to collect sediment and trash.

II. LAND USE ACTIVE: CONTINUED – 3. 360 Main Street

He added that the memo suggested an infiltration system, but as Ms. LoVerme stated, this cannot be done on this site. Mr. Kellard said that a storm sceptor could be added at the discharge pipe and would address the water quality runoff from the site. Ms. LoVerme said that the site is improving by removing the potential vehicles that could leak fluids. Mr. Krupa said yes, but other vehicles still leak. Mr. Kellard said that he didn't think that the application would get credit for that for mitigation purposes. Ms. LoVerme asked the Board if a storm sceptor is sufficient for the mitigation requirements or does the Board want more mitigation provided to meet requirements. Ms. Black said the fee should be determined and if the fee is the appropriate amount then it could meet the mitigation requirement. Mr. Barnett asked Mr. Kellard to clarify what a storm sceptor is. Mr. Kellard replied that a storm sceptor removes sediment and trash that would typically enter the brook during the initial part of a storm. He added that it has a bypass on it for larger flows but most of the trash is during the initial flow of a storm. Mr. Barnett said that if we think about our mission, this seems to be the way to proceed. Mr. Krupa agreed. Ms. Black said yes, this is a direct way to use the funds for this site and to protect the stream. Mr. Barnett said yes, this is protecting our environment and is much more useful than adding a few azalea bushes. Mr. Drapeau said he agreed. He asked Mr. Kellard if there was an estimate of what the cost would be. Mr. Kellard replied that this is something that could be worked out with the applicant to see what unit would be best for this site. Mr. Kellard said that there needs to be a discussion and then we would inform the Board of the results. Ms. Black asked if he would determine what the fee would be. Mr. Kellard replied yes. Mr. Benedict said that he agreed with Mr. Barnett and Mr. Drapeau that the storm scepters would be more appropriate than plantings on this site. Mr. Krupa said that he felt that the traditional 2 to 1 mitigation is not possible on this site. He added that the Board couldn't possibly ask for plantings on this site, but said that the Board seemed to be in agreement about the use of a storm sceptor on this site.

Mr. Krupa asked Ms. LoVerme if her client would be amenable to this suggestion. Ms. LoVerme replied that it made sense, but she couldn't speak for her client. She added that she would like to speak with Mr. Kellard about the comparison of cost of the units and fees. Mr. Krupa added that the Board would like to keep the proposed plantings on the four corners. Ms. LoVerme confirmed that the plantings would remain in the proposal. Mr. Krupa asked the Board if they would like to make a recommendation. Ms. Black said that a memo could be written which states that the mitigation requirements cannot be done on this site and a payment in lieu could be recommended as an alternative. Mr. Benedict asked if we could break up the fee if the system costs less and have remaining fees placed in a banked form. Mr. Krupa said that he wasn't sure if this should be a "dollars and cents" issue if the applicant is willing to do this. Ms. Black said the cost of the system could be lower and the remaining fees could be banked and used on another project in town. Mr. Krupa said he understood and asked the Board if the applicant needs to come back to present the findings discussed with Kellard Sessions Consulting.

II. LAND USE ACTIVE: CONTINUED – 3. 360 Main Street

Mr. Drapeau and Ms. Black said we need to hear more details and the applicant needs to come back to present to the Board. Mr. Benedict said if the system is less than the fees the remaining monies could be banked. Mr. Krupa said yes, this is what Ms. Black stated too. Mr. Krupa asked Ms. LoVerme to have a discussion with Kellard Sessions Consulting. She agreed.

II. LAND USE- ACTIVE:

4. 1 Kent Place – James Ryan and Anthony Nestor represented this application, which is located at 1 Kent Place. Mr. Ryan said this presentation may be slightly premature. He said that this project was referred by the Planning Board, but will also be presented to the Zoning Board of Appeals.

Mr. Ryan explained that there has been some encroachment onto the adjoining property for some time and this proposal is addressing the encroachment. He said the Zoning Board of Appeals vote would determine the plan that this Board would vote on.

Mr. Ryan said a revised plan may have to be done depending upon how the Zoning Board of Appeals votes. Mr. Ryan explained that the referral from the Planning Board was directed to this Board very quickly. However, a conference call was held with Adam Kaufman, Town Planner, and Joseph Cermele, Town Engineer, to address what variances were needed.

Mr. Nestor shared the plan via Zoom. Mr. Ryan referred to the prior approved project and wondered if offsite mitigation for this site can be done on another site. Mr. Krupa said yes, but only if mitigation on the site is not possible. Mr. Ryan said yes, this may be one of those cases. Mr. Ryan said that some of the encroachments are on the adjacent property, which is a gas station. He added that they have been working with the adjacent property owner since September to come to an agreement that allows some of the existing encroachments. He showed the Board the plan which shows a storage structure on the adjacent property. Mr. Ryan added that a majority of this site is within the wetland buffer. He stated that there have been some changes to reduce some of the encroachments with the neighboring property. He explained that easements from the gas station and the property to the south were never filed. He added that these encroachments which existed for about 10 years. Mr. Ryan said the plan had been prepared in conjunction with the gas station owner/applicant. He added that the plan shows the gas station improvements and the lot line change. He informed the Board that the neighboring property owner allowed certain encroachments which include the terrace, an existing cooler and access points around the site, particularly around the east side of the site which have been there for a long time. Mr. Ryan said that the terrace is in front of the Zoning Board of Appeals (ZBA) and the Planning Board for approval.

Mr. Ryan showed the Board an approved site plan from 2013, which showed an approved 1,400 sq. ft. terrace. The current terrace is 1,100 sq. feet. Mr. Ryan showed a plan which included 1,600 sq. feet with a newly paved area requiring a variance. He added that he was trying to legalize 1,051 sq. feet.

II. LAND USE ACTIVE: CONTINUED – 4. 1 Kent Place

He said that if the ZBA denies the variance, the applicant has to move the terrace. Mr. Ryan said that this is why this application may be a bit premature because the ZBA may not grant the variance. Mr. Barnett asked if the new terrace was put in in the last 10 years. Mr. Ryan said no; it was put in in the last 3 to 4 years. Mr. Barnett said when he built his house he submitted an as built survey in order to receive a Certificate of Occupancy (C of O) from the Building Department and asked how this happened. Mr. Ryan said yes, this is a violation issue and the property owner can remove the violation or be in compliance by getting the appropriate permits for the encroachments. He added that his clients have asked him to seek the appropriate permits for the site. Mr. Barnett said that this wasn't his question: he asked how the C of O was issued. Mr. Krupa said the C of O for the property was issued before this recent work was done. Ms. Black said the terrace had no permit. Mr. Ryan said that there encroachments were done before the C of O was issued and an easement was supposed to be filed stating this. Mr. Ryan added that they have learned from Roland Baroni, Town Attorney, that this easement was never properly filed to legalize what was there. Mr. Ryan added that there is a fence on the site that allows access and hopes this access can remain; otherwise the applicant would have to access the site from the other side of the building. He added that they have worked with the neighboring property to allow some of the encroachments; some were allowed and some were not. Mr. Ryan showed the Board a structure on the plan that enters the neighboring property and said that this would be removed. He said they have worked out the essential encroachments that would allow the restaurant improvements to remain in order for the restaurant to "work". He added this may seem a bit confusing but they have filed this application to legalize the site. He reiterated that this is up to the ZBA to approve or not as there are setbacks involved.

Mr. Krupa said yes, this is complicated because we can't ask the neighboring property to mitigate this site. Mr. Ryan said yes, we may have to ask the applicant to file a co-submission to mitigate the site, terrace and the neighboring site. Mr. Ryan said if the ZBA does not accept this proposal then it is a moot point. Mr. Ryan said that this was something that is important to the owners to sustain for the restaurant's viability to remain during covid and post covid time. Mr. Ryan said if the process for the variance is successful the applicant still has other issues to address. Photos of the property before and after were shown to the Board. Mr. Ryan showed the stream which was stabilized and mitigated in 2013. He said that there was very little mitigation area available in 2013 and wondered if offsite mitigation could be considered.

Ms. Black thought that this was a bit premature. She said that there seemed to be some areas on the site that could be mitigated. Mr. Ryan said yes, there could be some areas that could be planted. Mr. Ryan said that the application is on the February Agenda for the ZBA. Mr. Krupa said he wasn't sure what the order of events is but the ZBA seems to be the "key". Mr. Ryan agreed. Mr. Berra asked if the terrace and the outdoor patio are the same as he wanted to make sure that we were discussing the same area. Mr. Ryan said yes, this is the same location being discussed. Mr. Krupa said that the Board needs to see a mitigation plan when the time is appropriate. Ms. Black said it may be beneficial to do a site walk.

II. LAND USE ACTIVE: CONTINUED – 4. 1 Kent Place

Mr. Krupa referred to the Kellard Sessions Consulting memo which states that there is a lot of impervious surface and there doesn't seem to be the appropriate amount of stormwater mitigation. He added that it is important to keep the waterway clean. Mr. Ryan said yes, he agreed and is waiting for the ZBA to make a recommendation. He added that there is a high water table here but the client is willing to offset that with some sort of stormwater system. Mr. Krupa reiterated Ms. Black's statement that there seems to be enough area to provide mitigation on this site, but if there isn't a discussion would be needed to discuss the options. Mr. Ryan thanked the Board for their time.

5. 9 Sterling Road N. – Andrew Monaco, Nathaniel Holt and Hugh Harris, owner, represented this application, which is located at 9 Sterling Road North. Mr. Monaco said that they had presented this plan to the Board in November 2020, and the Board had provided comments and the plan was revised based on those comments. He said that the pool patio has been moved 25 ft. away from the wetland boundary and one side of the proposed pool patio has been removed and will remain as lawn area. He added that the pool patio has been reduced by approximately 300 feet and will be installed with pervious pool pavers. Mr. Monaco said that in terms of mitigation, the revised plan has added 11 birch trees, 39 dogwood shrubs and 78 inkberry and witch hazel plants.

Mr. Krupa referred to a comment that was made to move the patio to the right hand side and to allow the pool to be elevated which would provide fewer disturbances. Ms. Black said she was happy to see more mitigation planting, relocating the pool closer to the house and some elimination of the patio. She added that one side of the patio has been eliminated, but was hoping to see more of the patio removed on both sides of the pool. She said she did acknowledge that the pool patio pavers do alleviate some disturbance. Ms. Black said she would still like the patio to be reduced in size. Mr. Drapeau asked if the 40 x 20 proposed pool size has remained the same. Mr. Monaco replied yes. Mr. Drapeau asked if any discussion was held about elevating the pool. Mr. Monaco said that Mr. Holt designed the pool and he would have to answer that question. He added that the pool has remained at lawn level. Mr. Drapeau said that by bringing the pool closer to house it makes the pool part of the house and there would be more benefit and wanted to know the road blocks to not considering that option. Ms. Black said the mitigation plan has been greatly improved.

Andy Block asked if there was any concern as discussed in November about this application setting precedence for constructing a pool entirely in a buffer. He asked the Board if they had moved beyond that at this point. Ms. Black said that there once was a case she knows of which set a precedent. Mr. Krupa asked whether this was one specific case. Ms. Black replied yes. Mr. Barnett asked if there was a reason why that project was approved. Ms. Black said that she was on the Planning Board and the Conservation Board had recommended approval with an extensive plan which improved runoff that entered into the buffer. Mr. Block asked if she remembered the property location.

II. LAND USE ACTIVE: CONTINUED – 5. 9 Sterling Road North

Mr. Krupa said that he has significant reservations on this application and will not be voting for a positive recommendation for this application. He added that this was his opinion and is not trying to sway anyone's opinion on this. Mr. Krupa said that he could not in good conscience recommend a wetland permit for a pool constructed entirely in a wetland buffer. He added that the purview of the Board is to protect the wetlands, but urged the Board members to make their own decision.

Mr. Block said that Mr. Krupa is a Co-Chair and his opinions should be considered. He added that there are important considerations on both sides. Mr. Krupa said the Board should consider what "doors are being opened". He stated that the revised plan is a good plan however, he said that building a pool is not a necessity in life and couldn't support building a pool in a wetland buffer. Mr. Barnett asked about the mitigation amount that is proposed. Mr. Monaco replied that the total mitigation amount is 31,810 sq. feet. Mr. Barnett said he recalled that in the November meeting Mr. Harris said he was going to add many trees to the site. He added that he thought that the homeowner said he was going to go over the top and asked Mr. Monaco to explain how this plan has gone over the top. Mr. Monaco showed the Board a row of plants that have been added. Mr. Monaco said he could add more plants if the Board would like. Ms. Black said that the row of plants shown was not on the former plan. Mr. Monaco said yes, that is correct. Mr. Drapeau asked Mr. Monaco to zoom in on the pool. Mr. Barnett said that Mr. Krupa had "tipped his hat" on his pre-disposition of this plan. He added that his view is that the homeowner has done a significant improvement on the plan and was very responsive to re-locating the pool and making the pool an infinity pool, so he felt if that the homeowner has done all of this work yet the Board still found it insufficient then that this should have been made very clear to the homeowner before he did all of this work. Mr. Krupa replied that he did make it very clear at the November meeting. Ms. Black said that the rest of us felt that there should be a relocated pool and greater buffer enhancement. She added that she doesn't like to see an amenity entirely in a wetland buffer, however the homeowner has enhanced the buffer and we gave the homeowner a "go ahead" at the last meeting. Ms. Black said that in some cases planting in a wetland buffer can counteract disturbance to a low quality wetland by providing greater benefits than harm. Mr. Drapeau said that yes, there was encouragement to pursue another plan to take the pool entirely out of the wetland by constructing an elevated pool. He added that he has seen many of these pools; mostly in other countries, and the fact that this was not done makes it hard to approve. He added that this was not a hardship and that it is a luxury to have a pool. He said that he felt we weren't misleading the applicant at all.

Mr. Drapeau asked if the plunge pool on the site could be discussed. He mentioned that when the site walk was done he noticed a plunge pool (he explained that this is an area where the water cascades or collects) and asked if this area can be enhanced further. Mr. Monaco said he did not know where this location is. Mr. Drapeau asked if any improvement would be made to mitigate the impact of this. Mr. Monaco said that he is aware that there is a stream that enters thru this property from Seymour Place which is perpendicular to the house.

II. LAND USE ACTIVE: CONTINUED – 5. 9 Sterling Road North

He said he had been to this property as it is a client. Mr. Monaco said that he has not gone all the way back there. Mr. Barnett said that he wanted to go back to what Mr. Holt artfully said in November that the area of the pool location is already disturbed and this is not a virginal area and has already been disturbed with a septic system. He added that this is already a disturbed area, and that the amount of mitigation proposed and the receptiveness of the homeowner should be considered. Ms. Black recollected that the elevated pool was discussed, but we were instead giving the homeowner the suggestion to build the pool closer to the house. The Board also asked for more plantings because the additional plantings will improve runoff.

Ms. Black said that a letter was received in the office from a concerned resident. Mr. Krupa said yes, it was sent to Ms. Black and him only, as they don't have permission to share the resident's name. Mr. Krupa stated that he would not mention the author's name for they had not received permission to do so. Mr. Krupa read aloud the letter, which said that the resident received runoff from this property and wanted to state his concern with how the proposed work will be done. The letter stated that the neighbor wanted to know how the runoff will be treated. Mr. Krupa asked Mr. Monaco to address this letter and the concerns. Mr. Monaco said that there are two rain gardens proposed; these were shown to the Board. He explained that these rain gardens would capture the runoff and prevent it from entering the neighboring property. Mr. Monaco said that invasive removals will also take place.

Ms. Black said that infiltrators could be installed to treat any runoff. Mr. Monaco said yes, but in theory the pool is the only thing that is pervious. Mr. Drapeau asked Mr. Monaco to show the disturbance on the plan to the Board. Mr. Monaco complied. Mr. Krupa said the plans were great, and many of the suggestions previously made by the Board were done. The elevated pool was discussed and not done, however other things discussed were done, such as additional plantings. Mr. Krupa asked the Board if anyone had any more questions or comments. Mr. Drapeau said we don't really have quantification on the plunge pool to satisfy the abutters concerns. Mr. Monaco said that beside the rain gardens they have not addressed the plunge pool. Mr. Barnett referred to the discussion with Mr. Harris about all of the adjoining properties draining onto his property and then Mr. Harris explained that a pipe was under the road and emptying into his property. Mr. Barnett said that he has a rain garden on his property and that it would seem that the size of these proposed rain gardens would not alleviate the concern about the runoff. Ms. Black asked if they looked too small to him. Mr. Barnett replied yes, if what Mr. Harris said is true about their "being rivers" on his site then this to him would not suffice; but added that he is not a professional. Mr. Krupa asked Mr. Kellard to weigh in on what we could expect the rain garden to do. Mr. Kellard said that the rain gardens treat water quality and do not usually hold back the volume of water. Mr. Krupa asked Mr. Monaco about the size of the gardens. Mr. Monaco said that they are about 200 feet in size. Mr. Kellard asked what volume of water they are treating. Mr. Barnett said that if the amount of water on this site is accurate, then it would seem that a larger rain garden would be needed to gather and percolate the excessive water. He reiterated that he is not a professional.

II. LAND USE ACTIVE: CONTINUED – 5. Sterling Road North

Mr. Kellard asked if the septic system has been approved. He said that he questioned if the Westchester County Board of Health is aware that the plan proposal includes infiltration in the patio area beside the septic system. Mr. Kellard said that typically you need to have 50 feet in between the infiltration area. Ms. Black said that some of these questions need to be asked to Dan Holt. Mr. Krupa said yes, and Mr. Kellard raised a good point that we need to know if the septic system has been approved. Note: Mr. Holt & Mr. Harris were unable to get into the Zoom meeting due to technical difficulties on the host's end.

Mr. Holt was able to rejoin the meeting. Mr. Krupa asked Mr. Holt if the proposed septic system was approved by the Westchester County Department of Health. Mr. Holt replied yes, he said the permit was issued about 4 months ago. He added that it is a remediation permit as the existing septic system is failing. Mr. Holt said that about 3 feet of fill will be brought onto the site as the soils are not very good in this location. Mr. Krupa asked about the rain gardens and the size of the gardens. Mr. Holt said that the design has not been done yet. He added that a lot of runoff on this site is from the town owned roads. Mr. Krupa re-read the neighboring property owners memo, which raised the concern about runoff on their property. Mr. Holt replied that the property to the right of the applicant's has pushed a lot of runoff onto this site. Mr. Holt said about 2 years ago Mr. Harris received a permit to rehabilitate the house. The permit issued at that time included repairing and slightly enlarging the existing deck in the rear of the house. He added that the permit also included installing permeable pavers in the driveway to try to reduce runoff. The permit was issued without the need for a wetland permit from the Residential Project Review Committee (RPRC). He said that his client was confused that he needed a wetland permit now and didn't need a wetland permit at that time.

Mr. Krupa asked Mr. Holt to address the neighbor's concern about runoff onto his property. Mr. Holt said any runoff from the pool will enter a conventional cul-de-sac system. Mr. Holt said he understood that the town will be installing a catch basin in front of this site and diverting the road runoff to the cul-de-sac. He added that this would still enter the neighbor's property to the right of the cul-de-sac. Mr. Holt said the house directly across the street was re-developed and that has increased the amount of runoff on this property. Mr. Holt said that a lot of the runoff on this property is entering from a lot of other places and roads. Mr. Holt said there has been a pretty intense landscaping plan submitted along with the proposed rain gardens. Mr. Holt said the property was very overgrown with phragmites and other species and was ignored for years. He added that a lot of the site hasn't changed and they want to stop any effluent from entering into the downhill properties.

Ms. Black asked about the size of the rain gardens and how they would alleviate the runoff. Mr. Holt replied that the rain garden sizes can be worked out with Kellard Sessions Consulting. John Kellard said that the proposed size of the gardens is small and wondered if they would have any impact on the runoff issues. Mr. Kellard said that one of his concerns is about the size of the rain garden beside the pool. He added that Mr. Monaco stated that pervious pavers will be used in this area off of the pool deck. Mr. Holt replied yes.

II. LAND USE ACTIVE: CONTINUED – 5. Sterling Road North

Mr. Kellard said that the soils are not good in this area and the septic system is located next to the pavers. He added that the Westchester County Department of Health (WCDOH) requires that there should be 50 feet setback between pervious surfaces. Mr. Kellard asked if the WCDOH was aware that this application includes pervious pavers near the pool deck. Mr. Holt said that the WCDOH is aware of the proposed pool and not the pervious pavers. Mr. Kellard said that he was unsure if the WCDOH would approve the pavers in that location. Mr. Holt said that he wasn't sure that the pervious pavers would be appropriate in this location either. He added that he is looking for other ways to address the runoff on the right side of the plan. He reiterated that he didn't like the concept of the pavers in this area either. Mr. Kellard asked about the pumps for the pool. Mr. Holt said the pumps for the pool would be used year round to pump water off of the property. Mr. Kellard said yes, but during power outages this would not alleviate the situation. He added that Mr. Cermele said at the Planning Board review meeting that he was not comfortable pumping water up the hill. Mr. Holt said he didn't think there were enough soils to install infiltrators in this location. Mr. Kellard asked if a basin could be installed in this area. Mr. Holt replied yes, this could be done. Mr. Krupa asked if he could be more specific as to the area in question they are speaking about and wondered if it was near the proposed pool location. Mr. Kellard replied no, it would be closer to the wetland boundary location and asked Mr. Holt if this was correct. Mr. Holt replied yes, this is correct; it would be in the lower right hand corner of the plan. Mr. Kellard said this would be located in the wetland. Mr. Kellard said it should be located in the wetland buffer. Mr. Holt replied that this was acceptable. Mr. Holt said that he thought the other location could capture more of the runoff from the neighboring properties, but he understood what Mr. Kellard was saying.

Ms. Black asked if the location in question was where the cursor was on the screen. Mr. Kellard said that this was one of the locations and that Mr. Holt would need to design it. He added that the only other possible location could be near Seymour Place and asked Mr. Holt if there was enough elevation at this location. Mr. Holt replied that where the cursor was on the plan is a good location but the runoff would need to be piped to the infiltrator. Mr. Kellard agreed. Mr. Holt said this was not a lot of runoff in this area. Mr. Kellard agreed; and said it is a small patio area. Mr. Kellard said that there should be as much mitigation as possible to alleviate the neighbors concern downstream. Mr. Holt said the easiest place to locate it is beside the pool. Mr. Kellard said yes, if this works for you. Mr. Holt said his client would do that if this is what the Board would like to see. Mr. Holt said that he was trying to stay out of the wetlands and the wetland buffer. Mr. Kellard agreed with the location discussed.

Mr. Krupa said that the Board agreed that the revised plans showed a marked improvement and appreciated that the comments made by the Board were used in the plan. The Board was generally happy with the mitigation plans submitted which addresses the 2 to 1 mitigation requirements. Mr. Krupa asked if the elevated pool suggestion was discussed and asked why the elevated pool design wasn't executed. Mr. Holt replied that the suggestion made about tucking the pool closer to the house was a good idea and readily admitted that.

II. LAND USE ACTIVE: CONTINUED – 5. 9 Sterling Road North

Mr. Holt said he didn't understand what the Board meant about an elevated pool. He admitted that he understood that it was mentioned but added that a wall would be holding up the pool in the rear. Mr. Krupa asked if it was an infinite edge pool. Mr. Holt replied that it was not a true infinity edge pool. Mr. Krupa said that the Board noticed that the apron was eliminated on the north side and appreciated that. Ms. Black said that she had suggested that the patio sides be eliminated around the pool and asked for more reductions to the pool deck. Mr. Holt said that the main reason to install a patio beside a pool is to allow swimmers to exit the pool from at least three sides. He added that this is for convenience and safety reasons. Mr. Holt said that he would discuss this with Mr. Harris. Ms. Black reiterated that she would like to see more reductions in the patio plan. Ms. Black said yes, there needs to be more follow up on the rain gardens. Mr. Holt said yes, they needed somewhere to start and this was very helpful. Mr. Drapeau said that he would like to see the pool moved closer to the house to allow sunlight on your faces and not on your backs.

Mr. Block said that seems to be missing a piece of rigor here that is: he is concerned about if there is precedence here and that issue should be decided soon before sending comments back to the applicant if this application was not going to proceed. Mr. Block added that he was uncomfortable sending recommendations back to the applicant if this was not going to proceed. Mr. Block added that to counter that there was one other project done in similar circumstances to this and this would create a further precedent. Mr. Block said he thought we owed the applicant some clarity and said that it would not be a hard step going forward. Mr. Krupa said that he was not swaying any other members of the Board, but he has no plans on greenlighting this project. He commended the revised plans and wished the homeowner the best and wants him to enjoy his Armonk experience. He added that he could not approve a pool that is 100% entirely in the buffer and said that this is why this Board exists. Mr. Krupa reiterated that he made this comment at the November meeting and said this application needs a majority vote and wished Mr. Harris all the best. Mr. Barnett asked Mr. Krupa if it was his objective to preserve wetlands. Mr. Krupa replied yes, that is our job. Mr. Barnett addressed a comment made by Mr. Holt that there is "a little bit of sugar" in the rear because this would contain the runoff in the rear area. Mr. Barnett said that this would help protect the wetland in a way is not being done now. He added yes, there would be a pool in the buffer but through the process of Board review achieved improvements to the wetland.

Mr. Krupa said that he understood 100% what Mr. Barnett was saying and respected that point. Mr. Krupa all of the Board members should vote the way that they feel. He added that his concern is if this project is greenlit, the an application could be submitted next week that says that they would like to put a play set in the wetland and it could go on and on until there are no wetlands left. He apologized for being such a conservationist and said he didn't have a problem providing his opinion but urged the Board to make their own judgement.

II. LAND USE ACTIVE: CONTINUED – 5. 9 Sterling Road North

Ms. Black said she wanted to add that these are not completely black and white situations and we should look at the impact of the project on the wetland and in some cases, such as with this project, may result in a net gain to the wetland. She added that we need to look at each project individually and whether it is a net improvement or not to the wetland. Ms. Black said that this project includes a lot of mitigation and an attempt by the applicant to improve his property. She added that she thought the applicant has been proceeding in a positive direction. Mr. Holt said that he didn't want to undermine the point of what everyone has said, but if his client doesn't receive a permit for the pool all of the runoff from this site will remain. He added that this lot would not be created today. This lot was approved in 1956 and a lot of the laws have changed and the setbacks would be different and would not be approved today.

He added that his client is willing to pay a lot of money to "foot the bill" and none of that will be done if the pool would not be approved. Mr. Holt said there are a lot of benefits that have been discussed. Mr. Krupa said yes, he understood.

Mr. Harris said that the wetlands have been impacted by all of the construction in the neighborhood. He added that it is not all 100% from there. Mr. Harris said his neighbor directly across the street tripled the size of the house, tripled the size of the impervious area and relocated the septic system to the front of the house. Mr. Harris said that the pumps in his house used to run for 2 to 3 hours a day in his basement. He said that since the construction across the street has taken place; the pumps in the basement run every 2 to 3 minutes. He added that he is catching all of the runoff from that site. Mr. Harris said he is catching all of the runoff from the western and northern part of Seymour Place as well as all of the runoff from the entire neighborhood. This has impacted the northwest corner of his lot, which has induced the wetland. Mr. Harris said that the wetland will continue to grow if he doesn't do something about it. He said that the property is getting "mushier" and some of the trees are dying. He added that his neighbor raised the elevation of his house by 6 feet and no one said anything and he didn't say anything because he is a good neighbor. Mr. Harris said that all of this is resting on him and he is willing to do the work and felt he wasn't asking for much. He said he just wants to use his backyard and not have animal infestation on his property. He said this is the God's honest truth. Mr. Harris said the wetland buffer line would not be where it is if he wasn't catching all of this runoff. He added that he is trying to change this for the better. Mr. Krupa said he appreciated this. Mr. Holt said that there are two wetland lines on this site and the wetland line has moved in further after the construction across the street. Mr. Krupa said that the memo from the neighbor said that they are receiving runoff from this property and asked if this was the case. Mr. Harris said that the whole property is out of control and said that a pipe from Seymour Place enters directly onto his property and enters directly into the plunge pool and it is in disrepair. Mr. Harris reiterated that the pipe is in disrepair and is willing to repair and pay the cost. Mr. Harris said he would just like to be allowed to use his rear yard. Mr. Krupa thanked the applicant and said that the all of the Board needs to consider all of the information that was said.

II. LAND USE ACTIVE: CONTINUED – 5. 9 Sterling Road North

Mr. Krupa asked Mr. Holt to discuss the size of the rain garden and the infiltration system with Kellard Sessions Consulting. Mr. Krupa commended Mr. Holt and Mr. Monaco on the revised plan. Ms. Black said that before the applicant goes back to do more work we should see if the Board agrees that this is going in the right direction. Mr. Krupa agreed. Mr. Black asked about the WCDOH question about the pavers. Mr. Holt replied yes, this would be worked out with the WCDOH. Ms. Black said she thought it would be good to ask the Board if this application should continue. Mr. Krupa agreed and asked the Board to vote if the application should continue to be revised and re-submitted. Mr. Krupa asked the Board who was amenable to the application moving forward. Mr. Barnett and Ms. Black said that they were in favor of moving forward. Mr. Krupa and Mr. Benedict said that they were not in favor of the project moving forward.

Mr. Krupa asked Mr. Block and Mr. Drapeau if they wanted to state on where they stand on this application. Mr. Block said he is abstaining because he is unclear as to the position of the Planning Board and wanted to see the former application for a pool in the buffer which was approved. He said that he is unclear as to where we are, but added that the applicant has made many improvements. Mr. Block said he didn't want to encourage the applicant if we decided not to recommend a pool constructed entirely in a wetland buffer. Mr. Krupa asked if Mr. Block wanted to see that prior approved application so that he can see if a precedent has been set. Mr. Block said he would like to see what that application proposed. He added that just because it was done once, doesn't mean it should continue. Mr. Krupa asked Mr. Drapeau to comment on his abstaining vote. Mr. Drapeau said that the homeowner is trying to improve the property and to enjoy his house. He added that a pool is a great addition to a property and given what is going on in society it is nice to have privacy. Mr. Drapeau commended the applicant on the improvements made to address the runoff on the site; some of which is from other areas. He added that he didn't think it was a binary yes or no in improving something like this site. Mr. Drapeau said that he felt each property should be looked at on its own merit and said that he thought there would be enough wetlands left for Mr. Krupa's kids to enjoy. Mr. Krupa said it sounded like Mr. Drapeau was voting with Mr. Barnett and Ms. Black. Mr. Drapeau replied no; he is voting to abstain. Ms. Black suggested that a Board member could discuss previous applications like this one with Mr. Kaufman, Town Planner. She added that she agreed with Mr. Drapeau that each application should be looked at in an individual manner. Ms. Black said that this application is improving the conditions of the wetland and the wetland buffer. Mr. Drapeau said yes, there would be improvements on this site and there are a lot of pro's to this application. He said he lives in non-conforming house and has a pool and would like to see a western edge to the proposed pool on this site. Mr. Krupa said he has made his position clear from the start. Ms. Black said yes, we heard your position, but in this case the mitigation and infiltration benefits outweigh the disturbance into the buffer. Mr. Krupa said he understood, but his concern was "opening up the floodgates".

II. LAND USE ACTIVE: CONTINUED – 5. 9 Sterling Road North

Ms. Black said that we have the Town code to back us up and said that she lives in a house that is entirely in a wetland buffer and would not be allowed to be constructed in today's standards. Mr. Krupa agreed. Mr. Benedict agreed. Mr. Krupa said that he is fine being outvoted and said that this is the reason why we have multiple members on this Board so that the majority wins. Ms. Black said that we don't actually make the decision; the Planning Board does. Mr. Drapeau said yes, that is correct. Ms. Black said we can vote and let the Planning Board know the vote and our concerns. Mr. Krupa agreed. Mr. Drapeau said he felt that it is our job to make the Planning Board's job easier. Mr. Harris said he would like to reiterate one thing in closing which is that the wetland boundary was changed not in his favor when construction of the house across the street was constructed. He added that it is obvious that the wetland is growing because the runoff is uncontrolled. Mr. Harris said it is an uncontrolled soupy mess in the rear of his property and is running along the adjacent properties. He said that this statement is not subjective as the wetland boundary has changed from the old plan which was approved to this current plan. He said this is only highlighting the front of the yard and not addressing the neighbor in the rear's complaint of that runoff. He said that the westerly neighbor's runoff would be mitigated by this proposed plan. Mr. Harris said that he would not be able to control everything perfectly but is going to try and make an impact for the better.

Mr. Drapeau asked Mr. Harris about the plunge pool. Mr. Harris said it is very hard to get back there as it overgrown. He said the whole area uses it and he thought the Town was going to install a catch basin in this area. He added that his neighbor wanted the runoff to be re-directed to the cul-de-sac. Mr. Harris said that once the house across the street was elevated his other neighbor had 3-inches of ice in his driveway and was very upset. Mr. Harris said he was unsure what the status was on this issue. Mr. Harris said he offered to place the catch basin from the town on his property and he offered to offset the cost. He said he thought the town would be installing a catch basin on the end of Sterling Road North and possibly in front of his property. Mr. Harris offered to absorb some of that cost to alleviate the runoff.

Mr. Krupa said that the work that his team has put into this plan is wonderful and said he hated being "a stick in the mud" but, if the pool was outside the wetland buffer he would approve this project. Mr. Harris said he understood Mr. Krupa's position and said he loves this town and wants the best for everyone and doesn't want anyone to harm the wetlands but felt that this project was benefiting the wetland. He added that he would only be 50% in the wetlands if the wetlands hadn't increased. He said that he had to put in solar commercial pumps in his basement after the reconstruction across the street. Mr. Harris said that anyone else would be screaming about this but this is not who he is. Mr. Krupa said he understood and said the wetlands were probably created from something that was not done on site. Mr. Holt said that the current legislation is hurting this applicant because 50 feet from the wetland on this site doesn't exist. Mr. Harris said that this is an isolated incidence and asked the Board to treat it as such.

II. LAND USE ACTIVE: CONTINUED – 5. 9 Sterling Road North

He added that if this application is approved the wetlands would dry up and return back to its original origin. Mr. Harris said that there would be a dramatic change and will look beautiful once it's completed.

He asked the Board to keep an open mind and heart and see that it will be benefitting the Town and is not being invasive. Mr. Krupa said that as one of the Co-Chairs of the Board he appreciates this and asked the Board to vote with a clear conscience. Mr. Krupa said he didn't want to stand in the way of progress and said he thought it would be helpful to have Mr. Holt and Mr. Monaco to design the rain gardens as he believes the Board would be willing to vote in a positive manner. Mr. Krupa said he didn't want to speak for all of the Board though. He added that he knows that it is currently a split 2-2-2 vote.

Mr. Krupa asked the Board if the applicant should wait before spending any more time or funds on this application. Mr. Drapeau said we need answers first. Ms. Black said that we could speak to Mr. Kaufman about other circumstances if the Board is concerned about setting a precedent. She reiterated that she thought that each site should be looked upon individually.

Ms. Black added that if the Board is concerned about precedence, then yes, we can ask the question. Mr. Berra said that yes, Mr. Kaufman is a phenomenal resource and two Board members could speak to the Town Attorney about the impacts. He added that this may have been discussed in the past but it is good to be reminded. Ms. Black said that maybe one Board member could contact Adam Kaufman and another member could contact Roland Baroni, Town Attorney. Mr. Berra said yes, they both have historical knowledge. Mr. Berra added that there are flooding issues throughout different areas on town due to construction and sometimes they can have predictable or not predictable consequences. He said that maybe a discussion could be had with the Planning Board and Town Board to take this into consideration when re-zoning is done and felt it was good to have open communication.

Mr. Harris said he was willing to take his "lumps" and handle his problems himself. He said a lot of other residents would be looking to the Town to alleviate this issue. He said his neighbor is a nice man but he is willing to fix it himself and take it "on the chin" himself on his own dime. Mr. Harris said he would be willing to shave off 2-feet of decking which surrounds the pool. He said is willing to shift things as much as possible and have it as less invasive. Mr. Berra said he said he understood Mr. Harris' thinking on being congenial to the neighbors as he had a similar circumstance in his neighborhood. He added that he appreciates his concern with his neighbor's happiness. Mr. Harris thanked Mr. Berra and said that the site wasn't going to be perfect but would try to make the project the best as he can make it. Ms. Black said to summarize for the applicant we are planning to have a discussion with the Town Attorney and the Town Planner to see what the implications are. She added that the Board wanted to see the design for the rain gardens and the answer from the WCBOH. Mr. Holt said that the setbacks for the pool are approved and said the point that was raised was the permeable paver surface could change the plan. Mr. Krupa said that if an impermeable surface was used then the setbacks would need to be changed. Mr. Holt replied yes.

II. LAND USE ACTIVE: CONTINUED – 5. 9 Sterling Road North

Mr. Krupa said the surface may be too close to the septic system. Mr. Krupa said we have our marching orders and we need to get back to the applicant with those answers and Mr. Holt needs to design the rain gardens. Mr. Krupa said that we can reconvene next month and thanked Mr. Holt, Mr. Monaco and Mr. Harris and wished them all the best.

III. LAND USE- PENDING

1.No project were pending

IV. WORK PROGRAM

1.Website Improvements - No discussion.

2. Planning Board Report – George Drapeau attended the January 11th meeting. A synopsis of that meeting was sent to the Board via e-mail.

IV. WORK PROGRAM- CONTINUED

3. RPRC Report – Andy Block attended the January 5th and January 19th RPRC meetings. A synopsis of those meetings was sent to the Board via e-mail.

V. NEW BUSINESS -

1.Planning Board & RPRC liaison list – The Board decided to curtail the yearly list until the next Conservation Board meeting. John Krupa offered to attend the February 8th Planning Board meeting. Jane Black offered to attend the February 22nd Planning Board meeting. Jane Black offered to attend the February 2nd RPRC meeting. Adam Barnett offered to attend the February 16th RPRC meeting.

2. Site Walk – Ms. Black suggested that a site walk be scheduled in the morning via e-mail.

VI. CORRESPONDENCE & ANNOUNCEMENTS – No discussion.

VII. OLD BUSINESS – No discussion.

1.Tree Ordinance – A e-mail was sent by Mr. Drapeau to the Board and Mr. Krupa commended the e-mail and asked the Board if they would approve sending this to the Town Board. Mr. Benedict made a motion to recommend this and Mr. Krupa seconded the motion. The Board unanimously approved sending this e-mail to the Town Board. Mr. Drapeau said that the Board is in agreement to save trees and many towns are emphatic that if you take a tree down then you need to plant two trees in its place.

VI. OLD BUSINESS CONTINUED – 1. Tree Ordinance

He added that a regulation like this will discourage residents from removing trees. Ms. Black asked where this is being enforced. Mr. Drapeau replied that this is being enforced in Sleepy Hollow. Ms. Black said that we live in community with a lot of trees on many lots. She referred to a project discussed at a recent RPRC meeting that had two tree removals on a heavily wooded property; in this case it was not recommended that the trees be replaced. Mr. Drapeau said yes, this is why you have a tree commission. Mr. Barnett suggested having a separate discussion on this important work that Mr. Drapeau submitted. Mr. Berra said he supports this but there needs to be a discussion on storms and the effects from trees falling. Mr. Barnett said yes, this is great topic and should be discussed at the next meeting. Mr. Berra asked if the Planning Board was consulted on this. Mr. Krupa replied that the Town Board had requested this information from him at his “re-up” session. The Conservation Board Secretary asked if she should send the memo to the Town Board or not. Mr. Krupa replied that she should send the memo to the Town Board.

VIII. ADJORNMENT – A motion was made by Craig Benedict to adjourn the meeting and was seconded by John Krupa. The Board voted unanimously to adjourn. The meeting ended at 11:05 P.M.

IX DATE OF NEXT MEETING: February 16, 2021

Julie Mucker, Secretary
Conservation Board

Saved as: Minutes11921