



**TOWN OF  
NORTH CASTLE  
CONSERVATION  
BOARD**

17 BEDFORD ROAD  
ARMONK, NY 10504  
TEL: 914 273 0346  
FAX: 914 273 3554  
[www.northcastleny.com](http://www.northcastleny.com)

**THE 475<sup>TH</sup> REGULAR MEETING OF THE NORTH CASTLE  
CONSERVATION BOARD  
TOWN HALL ADMINISTRATORS CONFERENCE ROOM  
TUESDAY, SEPTEMBER 20, 2022  
7:30 P.M.**

**Corrected**

**PRESENT:** Craig Benedict; Andy Block; George Drapeau III; John Krupa, Co-Chairman; Nora Manuele; Erin Nenadich; José Berra, Town Board Liaison; Susan Roth, Kellard Engineering Consulting.

**NOT PRESENT:** Adam Barnett; Jane Black, Co-Chair.

**GUESTS:** Steven Marino and John Fry- represented 25 Edgar Road.  
Stephen Lopez- represented 84 Round Hill Road.

**I. MINUTES:** Minutes of the regular meeting, which was held on September 20, 2022, were approved as corrected. A motion was made by George Drapeau and was seconded by Craig Benedict. The motion was unanimous.

**II. LAND USE: ACTIVE 1. 25 Edgar Road** – Steven Marino and John Fry represented this application, which is located at 25 Edgar Road. Craig Benedict recused himself from the presentation as he had a past work relationship with the applicant. Mr. Fry explained that the applicant contacted the town to “clear up his file” in order to sell the property. Mr. Fry added a site walk was done on July 29, 2022 at 12:45. Mr. Krupa asked Mr. Fry to explain the application to the Board as there are a few new Board members.

Mr. Marino said that unauthorized work was done in the wetland and they are trying to “square” up the file in order to sell the property. He said the wetland has been delineated and confirmed by Ms. Roth, Kellard Sessions Consulting, and the New York State Department of Environmental Conservation (NYSDEC). Mr. Marino said he walked the site with a member of the NYSDEC and she confirmed that although the applicant should have procured permits for the work done in the wetland and wetland buffer, they were not willing to issue violations because everything that was done is stable. He showed the infiltration area on the plan which is colored in blue. Mr. Marino said they need to obtain an article -24 permit from the NYSDEC for the area in question.

Andy Block stated that the NYSDEC codes are separate from the town code requirements. Mr. Fry said yes, he just wanted to be clear on the fact that it is a NYSDEC wetland. He added as a result of the site walk, he highlighted the areas of mitigation that were discussed on the site walk.

## **II. LAND USE: ACTIVE – CONTINUED -1. 25 Edgar Road**

Mr. Marino reiterated that the area colored in blue is the infiltration system and the areas colored in yellow are no mow zones which will be mowed one to two times per year. Mr. Marino said in order to maintain the area they are planning on planting a low grass area. He referred to the area colored in orange which will reduce it to a zero-entry grade at the entry to the pond for critter crossings. Susan Roth said turtles come to mind for this type of crossing. Mr. Marino said the area colored in light green will have some native trees in this area. He said the areas in dark green are areas that have been planted and will be culled and planted with native trees. Mr. Marino added they are proposing to do this work now for seasonal planting purposes and asked if they could get authorization to do this work. Mr. Marino reiterated that this would be a no mow zone and taking the non-native plants out of the area. Ms. Roth said at the site walk they discussed taking out the prolific plants. Mr. Marino said that there are many hybrid Japanese maple trees and they are not prolific. Mr. Krupa thanked Mr. Marino and Mr. Frye. He informed the new Conservation Board members that this is not the norm in reference to presenting applications; meaning that the normal application process is seeking approval for work to be done and not after the fact. Mr. Krupa said normally math is involved for the quantification for mitigation requirements. He said the site walk was informative and at this point we want to make sure that the town code requirements are met. Mr. Krupa asked Ms. Roth how the Board should proceed. Ms. Roth said the only practical way to proceed is to make it better for the community eco system and water quality. She referred to the wetland on the other side of the pond that has very little invasive species in it and is a good example of what it should look like. Mr. Block said this is an unusual circumstance and commended the applicant and the representatives. He added that there is an opportunity for offsite mitigation or contributing monetarily to a bank. He stated that is not punitive, it is the town code requirement. Ms. Roth said the disturbance is all around the pond and when the revised plan is submitted, we can compare it to the town code. She said adding additional plants wouldn't be beneficial. Ms. Roth said that the applicant planted trees on the neighboring property. Mr. Fry said the neighbor has not complained about the tree plantings that were done. Ms. Roth said the pond is very far from the house, and probably never noticed the tree plantings. Mr. Krupa said that this property has had plantings added over decades and will be very hard to quantify. Ms. Roth said you can review it as a mitigation plan and you can approve certain species such as the pine trees. She added that is a kind of "game of numbers".

Ms. Nenadich said she understood from the last meeting that the applicant is planning on selling the property and asked why the applicant is seeking permit approvals now. Mr. Krupa said there are violations on the property for work done without a permit. Mr. Fry said there was work done in the basement of the house without a permit and he realized in order to sell the property he needed to legalize all of the work done. Mr. Drapeau asked if the stone work and retaining walls could be quantified. Mr. Marino said there wasn't a lot of impervious surfaces added. Mr. Frye said most of the property has received permits which includes the pool, but some of the work done without a permit is outside the buffer area.

## **II. LAND USE: ACTIVE- CONTINUED 1. 25 Edgar Road**

Mr. Fry added some of the runoff from these areas drain into the wetland. Mr. Fry said that some of this is “tricky” as how do you quantify something that was put into the ground. Ms. Roth said for engineer purposes you can quantify the work done as it is disturbance. Mr. Fry said that this is more science and we have a target for resolution. Mr. Krupa agreed. Mr. Krupa referred to the non-native plants and said he would hate for them to end up in a dumpster. He asked if landscaping on private property had been donated to the town. Mr. Berra replied he was unsure; but directed the Board to speak to the Parks and Recreation Department. Ms. Nenadich asked how many plants would be removed. Mr. Krupa replied that there would be many plants removed from the site. Mr. Krupa asked the Secretary to contact the Parks and Recreation Department to ask if they could use the donated plants and trees in areas of the town. Mr. Marino said that this is the part where we go to the site and count how many plants will be removed. Ms. Manuele asked why they can’t use the plants on site, but they can be used in a park. Mr. Krupa said that the property is an arboretum. Ms. Nenadich said she understood the question which is why the plants can be used somewhere else. Ms. Nenadich said these non-native plants are in a wetland buffer. Mr. Krupa said yes, the buffer is a filter for the wetland and we want to make sure that the wetland remains pure. He said the non-native plants interfere with the function of the wetland and we need to remove them. He added the plants cannot be moved to another part of the property as it is an arboretum. The Secretary asked if the Parks and Recreation Department are interested, what is the next step. Mr. Krupa said that they can contact the applicant.

Mr. Krupa asked the Board who have attended the site walk if they had any further questions. Ms. Roth said the only question that she had for the Board is once the Japanese maples are removed, how are you going to quantify the value of those trees. She said the owner could sell the trees and doesn’t have to donate them to the town. Mr. Krupa said that this is a very interesting question. Ms. Roth said that you should be prepared to discuss this. Mr. Fry said he had a synergetic notion of having this as a resolution in lieu of a fine. The Board agreed. Mr. Berra said he didn’t think that the Town Board would be interested in paying for trees. Mr. Krupa said that the town wouldn’t be paying for the trees, this would be a donation in lieu of a fine. Mr. Krupa respectfully asked Mr. Berra if the town has to be involved with this aspect as we are contacting the Parks and Recreation Department. Mr. Berra said the specimens should be evaluated and the town should be contacted on this. Mr. Berra said that the town has to approve donations. Mr. Krupa said that this is not quite listed as a donation. Ms. Manuele said that if these plants are removed and discarded, why not accept the trees. Ms. Nenadich said that if the trees are donated why not accept them versus a monetary fee. Mr. Block said that if the owner wants to remove the trees and sell them or if the town would rather have the applicant pay into a bank fund in lieu of as an option. Mr. Berra said that yes, if we accept the trees this would reduce a cash payment. Mr. Block said yes, the owner could sell the trees. Mr. Marino said that these trees are large in scale and probably not what the town would normally get to plant. He reiterated that the value of these plants is certainly different.

## **II. LAND USE: ACTIVE- CONTINUED – 1. 25 Edgar Road**

Mr. Marino said they would go to the site and count how many trees need to be removed and set a value for these trees. Ms. Roth said that she has to review the town code to see if the Planning Board or Town Board has jurisdiction. Ms. Roth suggested contacting the Town Attorney for his advice on the tree donations. Mr. Krupa said he would call Roland Baroni, Town Attorney. Mr. Krupa asked if the client would be interested in this option. They said they will contact the applicant. Mr. Berra asked if these plants are invasive to the parks. Ms. Roth said no, they are destructive to the wetlands. Ms. Roth said that the plants need to be quantified and can easily be done by price lists available. Ms. Roth said the town may not want the donated plants out of principle. Mr. Marino said that they will make sure that the plants are removed and not discarded. Ms. Nenadich said if the plants were not used by the town to please donate them to a charity. Mr. Krupa said there are tree brokers who will sell the trees to a landscape company. Mr. Drapeau said there is such a preponderance of trees on the site. Mr. Marino said that we now have our marching orders. Mr. Fry asked if it was fair to say that we have a resolution. Mr. Krupa said yes, this looks good. Mr. Drapeau said he would like for more science for the treatment for what is to take place. Mr. Krupa said that the destruction of trees would hurt the Conservation Board. Mr. Drapeau said yes, there is no room on the property to place the specimens that are to be removed. Mr. Fry asked if this could be resolved administratively or does the application need to present again to the Board. Ms. Roth said a revised plan needs to be submitted to the Board, so you would need to present that plan. Ms. Roth and Mr. Krupa said yes, we need to see the numbers. The Board thanked the representatives.

**II. LAND USE- ACTIVE 1. 84 Round Hill Road** – Stephen Lopez represented this application, which is located at 84 Round Hill Road. Mr. Krupa informed the two new Board members that this application had presented to the Board several years ago and the Board reluctantly granted a recommendation for this project. Mr. Krupa said that a site walk was done on July 29, 2022 at 12:00. The applicant has received a violation from the New York State Department of Environment Conservation (NYSDEC). Mr. Drapeau said the applicant had claimed that his family from Eastern Europe would be living in the house he owned next door to this property and it turned out to be false. He added the house next door is for sale. Mr. Krupa said the applicant needs to meet the town code requirements. Mr. Krupa stressed that Christopher Carthy, Planning Board Chairman, wants the Boards opinions. He said Mr. Carthy reads the Conservation Board Minutes and any opinions should be voiced.

Ms. Roth questioned the plans that were given to the Board. The Secretary said that the plan was sent digitally and not in paper form. Ms. Roth showed the Board the mitigation on the plan that the NYSDEC has approved. She said that the applicant had mowed to the pond, which was not approved. She said the plants that surround the pond act as a filter and they mowed it down. Ms. Roth said that the applicant told her that his wife wanted it mowed to the pond. She said that it looks quite pitiful. She said she had no issues if the dock is used, but the owner has silted the pond. Ms. Roth said the pond in certain areas is only 8 inches deep.

## **II. LAND USE: ACTIVE- CONTINUED 2. 84 Round Hill Road**

She said the other side of the pond is what it looked like, which is reeded. She said the pond is protected by these reeds and from geese. Ms. Roth said a permit was issued by the NYSDEC to plant around the pond as a buffer and they have proposed berms. She said the town does not have to accept what has been proposed by the NYSDEC. She said plants can be planted to protect the pond. Ms. Roth referred to the site walk done and mentioned that Ms. Black stated what should be done to the site. Ms. Roth referred to an area on the plan that proposed red fescue which has now been changed to include an Ernst seed mix. She said the plant list will be bolstered to meet the mitigation requirements. Mr. Drapeau asked if boulders were proposed. Ms. Roth replied yes, they will be placed along the buffer line. Mr. Block asked if this plan is a result of the site walk. Mr. Drapeau said this area is in a portion of the Connecticut drinking water aquifer and it is important that we care for it. Mr. Krupa said the applicant told him at his separate site walk that this is the way the property looked when he bought it and Mr. Krupa showed him pictures from on his phone of the site and the applicant denied that these photos were of this site. Ms. Roth asked if ferns are located on the other side of the pond. Mr. Krupa said yes. Ms. Roth said this is the way the it should look like on both sides of the pond. Mr. Krupa said in 2019, the applicant requested that all mitigation be moved to 82 Round Hill Road and the Board would not allow that. Ms. Roth heartily agreed with that outcome. Mr. Benedict said the applicant stated there was insufficient amount of room to mitigate on the one site, but the Board asked the applicant to mitigate each site individually. Ms. Roth said the alternative to the seed mix is to replant the ferns. Ms. Roth said she was unsure if the ferns went up to the pond. She said there could be a combination of the ferns, seed mix and meadow.

Mr. Lopez handed out 11x17 size plans to the Board. He said that the proposal includes creating a distinct barrier between the wetlands and the property. He said his client is very favorable to adding black birch, rocks and log benches to the site. He said the pathway to the pond was approved by the NYSDEC. He said they are proposing to plant an herbaceous plant mix which he showed the Board. He said the plant mix includes wildflowers and a sedge mix. Mr. Lopez said red fescue was originally proposed, but was discouraged by the NYSDEC. He said the shoreline plants have been bolstered by 50% which include caltha and hibiscus. Mr. Lopez said the site was barren and included cinnamon fern, barberry and Ragusa rose. Mr. Drapeau asked if there is documentation of the site when it was bought. Mr. Lopez replied no, he does not have any phot of this site. He said he had many photos of 82 Round Hill Road. He said the property had been deforested and it was overgrown. Mr. Krupa said yes, it was overgrown and said that he has pictures of the site on his phone. Mr. Lopez said he had no idea that this happened after the approvals were done. He said about six months later his client called to tell him that the town was at the site and said that there had been disturbance to the wetlands. Mr. Lopez called a NYSDEC colleague and they worked on the plan that was submitted to the Board. He said the revised plan is basically the same except for the barrier in front of the buffer and additional plantings. He showed a letter from the NYSDEC to the Board which provided guidelines on how to proceed.

## **II. LAND USE: ACTIVE- CONTINUED- 2. Round Hill Road**

Mr. Krupa said that the NYSDEC is not the final word on local wetlands. He added the NYSDEC is wonderful, and wanted it to be clear that he respects them. Discussion ensued on NYSDEC regulations. Ms. Roth said the NYSDEC recommendations have no bearing on local law. Mr. Lopez, said yes, this was taken from amalgamations from past approvals. Ms. Roth said the Planning Board issues a bond for the cost of the plants plus 2 ½ x more for the plants. She added the bond ensures that the planting gets done. Ms. Roth said there is also a small bond for maintenance which lasts for five years to make sure the plants thrive. Ms. Roth said she inspects the plants and if a plant is dead, she will ask the owner to replace the plant. She added the first bond gets the “ball rolling”. She said the Ernst seed mix is vulnerable because the homeowner can mow it. Mr. Lopez asked Ms. Roth if her office did the monitoring for the plants. Ms. Roth replied yes. Mr. Krupa said the boulders will provide some delineation. He asked about the arrows on the plan and asked this is a no mow zone. Mr. Lopez replied yes. Ms. Roth said she reviewed the plan and thinks it will be nice once its completed. She said the proposed shad blow plant is highly toxic and suggested talking about this with his client as he has children and a dog. Ms. Roth suggested using a high blueberry bush which is a native and edible plant. Mr. Benedict said the plant list includes a Buxus boxwood which is not a native plant. Ms. Roth said they are located beside the driveway and not in the wetland. Mr. Benedict asked how the meadow mix will be installed. Mr. Lopez said you can use several different methods such as: herbicide, rototill or scarifying the area. Mr. Block asked Mr. Lopez to explain the term scarify. Mr. Lopez complied. He explained that the seed will be cut into the soil and should overplant the weeds. Mr. Krupa said it is in the best interest of the owner to plant this in the correct way. Mr. Lopez said yes, it will look pretty. Ms. Roth said yes, the marsh marigolds are quite pretty. Mr. Benedict said the winter berry is a very nice plant and it will feed the birds. Ms. Roth said yes, they are quite beautiful, but are poisonous. A brief discussion on poisonous plants took place. Ms. Roth informed Mr. Lopez that a clear quantification of disturbance totals must be placed on the plan. Ms. Roth said the Planning Board will set the conditions for approval. She directed Mr. Lopez to contact the NYSDEC to see if they approved of the plant list that has been submitted. Ms. Roth said to change the mitigation notes for only the Town of North Castle and to remove any notes that pertain to the NYSDEC. Mr. Block asked if this was done as approved, why does the mitigation include what was disturbed. Ms. Roth said it is part of the mitigation. Ms. Nenadich said yes, but as Mr. Block said, the applicant caused the disturbance. Ms. Roth said a total of 9,749 sq. feet of disturbance was done without a permit by the applicant, which now needs to be mitigated. She said he needs to mitigate a total of 19,498 sq. feet in the buffer area. Ms. Roth said he needs to calculate it and meet the town code requirements. Mr. Lopez said he will revise and separate the plans that are applicable to the town and the NYSDEC.

Mr. Block said he would like to see the revised plan. Mr. Krupa agreed that the Board would like to see the revised plan. Mr. Lopez asked if this could be done with Ms. Roth or does he need to come back and present the plan to the Board.



## **II. LAND USE: ACTIVE – CONTINUED – 2. 84 Round Hill Road**

The Board agreed that the plan should be presented to the Board. Mr. Lopez apologized that his client caused these issues. Mr. Krupa said that there was no need for an apology as he did not do this to the property.

## **III. LAND USE- PENDING – No applications are pending.**

## **IV. WORK PROGRAM**

1. Website Improvements – No discussion.

2. Planning Board Report – August 8<sup>th</sup> - Craig Benedict attended the August 8, 2022, Planning Board meeting. He said an applicant located at 33 Woodlands Road may be presenting to the Conservation Board. Mr. Krupa asked if the proposed pool is located entirely in the buffer. Mr. Benedict said yes. The 9 Sterling Road application was briefly discussed.

2. Planning Board Report – September 12<sup>th</sup> - Craig Benedict attended the September 12, 2022, Planning Board meeting. A brief synopsis of the meeting was sent to the Board via e-mail.

3. RPRC Report – August 2<sup>nd</sup> - Craig Benedict attended the August 2, 2022, RPRC meeting. A brief synopsis of the meeting was sent to the Board via e-mail.

3. RPRC Report – August 16<sup>th</sup> – Craig Benedict attended the August 16, 2022, RPRC meeting. A brief synopsis of the meeting was sent to the Board via e-mail. He said there may be an application for tree removals from 10 Windmill Place.

3. RPRC Report – September 6<sup>th</sup> – George Drapeau attended the September 6, 2022, RPRC meeting. He said there was an application that included a plunge pool and it would be an administrative permit. Mr. Krupa informed the new Conservation Board members what an administrative permit is.

## **V. NEW BUSINESS**

1. “See Something/Say Something” - A brief discussion took place about what this content means for the new Board members. A brief synopsis of past examples was explained for the two new Board members.

2. Tree Discussion -Memo to the PB – Mr. Drapeau handed out the information on the proposed changes for the tree codes to the Board. The tree code discussion will take place in October and will be presented to the Town Board and Planning Board.

**V. NEW BUSINESS- CONTINUED – 2. Tree Discussion- Memo to the PB**

The Board agreed that Christopher Carthy, Planning Board Chairman, should be contacted for his opinion on what will be submitted. Mr. Drapeau said that he will e-mail the report to the Board. The Board agreed this should be submitted as soon as possible. Mr. Berra said it would be a good idea to have the Planning Board involved in the process before it gets presented to the Town Board. Mr. Drapeau said he would be out of town but wanted to be part of the discussion. The Secretary said she would contact the Town Attorney to inquire if Mr. Drapeau can be part of the meeting remotely.

3. Submission Checklist – Homeowner Requirements – No discussion.
4. Plants- Discussion – No discussion.

**VI. CORRESPONDENCE & ANNOUNCEMENTS- No discussion.**

**VII. OLD BUSINESS**

1. Summit Club – Discussion -email sent from resident – A memo was sent from the Planning Board from a resident who was concerned about pesticides contamination for residents in the surrounding area. The Board agreed that an e-mail should be sent to the resident saying that the Board has received the e-mail. A brief discussion took place about many concerns about the project.

2. Mt. Misery – Mr. Krupa commended Ms. Manuele for her perseverance in protecting Mt. Misery in North White Plains. Mr. Berra informed the Board the town will be purchasing the area in Mt. Misery that was for sale. The area will now be protected and designated as open space.

3. Propose Designation of a road as a scenic byway – Mr. Krupa informed the Board he had received a letter that a resident no longer wants to be a part of this proposal. Mr. Krupa said that this Board would be submitting this memo of support of the scenic byway. He added there is a lot of support from the community for this scenic byway designation. He asked the Board to review the memo and submit any changes or corrections. Ms. Nenadich provided corrections on the memo to Mr. Krupa. Mr. Krupa said by designating this as a scenic byway, this will deter future development.

**VIII. ADJOURNMENT** – A motion to adjourn the meeting was made by Craig Benedict and was seconded by George Drapeau. The meeting was adjourned at 10:10 P.M.

**IX. DATE OF NEXT MEETING: October 18, 2022.**



