



**THE 468<sup>TH</sup> REGULAR MEETING OF THE NORTH CASTLE  
CONSERVATION BOARD  
TOWN HALL ANNEX-MEETING ROOM  
SEPTEMBER 21, 2021  
7:30 P.M.**

**Corrected**

**PRESENT:** Adam Barnett; Craig Benedict; Jane Black, Co-Chair; Andy Block; George Drapeau III; John Krupa, Co-Chairman; José Berra, Town Board Liaison.

**NOT PRESENT:** John Kellard, Kellard Sessions Consulting.

**GUESTS:** Matthew Gironda and Glenn Ticehurst represented- 50 E. Middle Patent Road.  
Jay Fain represented- 263 Bedford-Banksville Road  
Christopher Carthy, Planning Board Chairman and James Jenson, Planning Board member.

**I. MINUTES:** Minutes of the regular meeting, which was held on July 20, 2021, and Minutes from the special work session, which was held on August 31, 2021, were approved as corrected. The motion was made by Jane Black and was seconded by George Drapeau. The motion was unanimous.

**II. LAND USE: ACTIVE – 50 E. Middle Patent Road** – Matthew Gironda and Glenn Ticehurst represented this application, which is located at 50 E. Middle Patent Road. Mr. Gironda showed the Board the existing house on the plan. He said that there will be another lot developed on 5 acres which would be Lot 1. He said that the new lot proposal includes a new house and pool. Mr. Gironda said the larger lot with the existing house is 23.8+/- acres, and will include a few modest additions such as a garage, pool and a pool house. He explained that the lot has been scoured for wetlands, water courses and steep slopes and none have been found.

Mr. Gironda said that a stormwater pollution prevention plan has been prepared. He said all runoff is uncaptured at this juncture, and the new system will capture all runoff into two infiltration systems. Mr. Gironda explained that the current septic system has been inspected and will serve for the existing main house. He added that testing has been done with the Westchester County Health Department and Joseph Cermele, Town Engineer and they have found suitable soils for the system. Mr. Gironda showed the Board the existing attached garage which will be removed and constructed on a new location on the site. He said the existing shed will have been proposed to be used as a garden shed. Ms. Black asked Mr. Gironda to show the Board the wetland buffer line. Mr. Gironda complied with Ms. Black's request.



## **II. LAND USE: ACTIVE- 1. 50 E. Middle Patent Road –**

Ms. Black asked if there are proposed tree removals. Glenn Ticehurst showed the Board the area where the removals would take place. He added that the tree species to be removed are red maples. Mr. Block asked what size the proposed house is. Mr. Ticehurst said he did not have the square footage available, but said it is modest in size. He said that the house design is modeled to look like a barn from the street. Mr. Ticehurst added that this is a beautiful piece of property and said the existing stone walls and two curb cuts will remain. Mr. Block asked if the driveway is a shared driveway. Mr. Ticehurst said yes, it is a family compound. Mr. Ticehurst said the applicant had thought about subdividing a third lot, but decided against that. He said that the lot has a lot of invasive plants and these will be removed. He added that the main house will have a small addition. Mr. Ticehurst said that there are a few tree removals adjacent to the existing pool house. He showed the existing garage and said that it is not functional and would be rotated. Mr. Barnett asked if the property owner has expressed interest in creating a conservation easement. Mr. Ticehurst replied no, but he can talk to his client about the possibility of an easement. Ms. Black asked if this property is in the rear of the Mianus Gorge Preserve. He said yes, it is possible. Mr. Krupa said yes, the plans show a boundary near a park. Ms. Black referred to a memo sent by Kellard Sessions which said that this has a critical environmental area behind the property. Ms. Black asked about a mitigation or landscaping plan. Mr. Ticehurst said that they are in the process of developing the plan. He said that they are proposing orchards along the front of the property.

Ms. Black said that the Board normally reviews wetland applications, but this subject to review because it is over 10 acres in size. She said that application is not in the final phase, but would like to ask the Planning Board to send the mitigation plan once it is submitted. Mr. Barnett said that he feels very strongly about encouraging the conservation easement on this site. The Board agreed. Mr. Ticehurst said he would speak to his client. Mr. Krupa said yes, there is no construction in this area and this would be a great consideration. Ms. Black said that the rear of the property looks like it cannot be developed. Mr. Krupa said this could have a tax benefit for the applicant. Mr. Gironda said the tax benefits may not be beneficial, but they would speak to the applicant.

Mr. Krupa referred to a Kellard Sessions Consulting memo which states that the proposed construction will create stormwater discharge from point or non-point sources. He asked how this project would add to the stormwater discharge. Mr. Gironda explained that in the SEQR process it states that there will be additional discharge due to impervious surface changes. He added that this will be mitigated with a full stormwater management system plan. Mr. Gironda said that the mitigation will encompass a 20 to 25 year storm event. He added that a full SWPP (stormwater pollution prevention plan) has been submitted to Kellard Sessions Consulting for review. Mr. Krupa asked if the construction is in the 100-year flood plain. Mr. Gironda said that the area is approximately 1,000 feet away from any disturbance. Mr. Ticehurst said that the existing gravel driveway will remain. Mr. Gironda said that the existing driveway drainage is not treated and the proposal includes the capture of all runoff from the driveway.

## **II. LAND USE: ACTIVE – 1. 50 E. Middle Patent Road**

George Drapeau asked if there are any specimen trees to be removed. Mr. Ticehurst said that there are no specimen tree removals on the site. He showed a photograph of some of the trees to the Board. He added that currently, there are no saplings and the site has a lot of barberry and has absolutely no understory. Mr. Ticehurst said the proposal includes planting of maple trees and more native trees. He added that the only non-native trees will be the proposed fruit trees in the front yard. Mr. Ticehurst said that they will primarily plant dogwood trees and native shrubs around the house. Mr. Krupa asked about the stone wall and the historical significance. Mr. Ticehurst said that the stone walls will remain as is as his client likes the existing design of the property. Ms. Black said that this is a scenic roadway and the architecture will tie into the existing houses on the roadway. Mr. Ticehurst said yes, this was the intent. Mr. Benedict said he would like to see the amount of trees that will be proposed for removal. Mr. Krupa said he liked Mr. Barnett's recommendation about the conservation easement. Ms. Black said yes, our comments to the Planning Board will be to review the upcoming mitigation plan, tree removals and the prospect of a conservation easement for the site. Mr. Christopher Carthy, Planning Board Chairman, asked about the incentive for the applicant to acquire a conservation easement. Ms. Black said that there could be a property tax reduction. Mr. Krupa referred to the Trump property as an example. Mr. Ticehurst said that many of these easements are based on forfeiture for any construction in a location and it would need to be proven that a house can be constructed on the proposed easement location. He added that he is on the Board of the Westchester Land Trust and was uncertain if construction could take place in this location. Mr. Ticehurst added that his client is very open minded and would possibly consider the easement. Mr. Krupa said that this is a recommendation and this could be explored. Ms. Black said yes, she didn't see any development occurring in the location in question. Mr. Berra said that he thought it was difficult to get significant income tax deductions for easements.

A motion was made by Adam Barnett to recommend the request for a conservation easement and the application as it is now. The motion was seconded by Andy Block. The motion was unanimous.

## **II. LAND USE- ACTIVE- 2. 263 Bedford-Banksville Road**

– Mr. Jay Fain represented this application, which is located at 263 Bedford-Banksville Road. Mr. Fain said that he is representing Kent Farrington, who is a top equestrian, who bought this property, which needs many renovations to suit his needs. He added that a special use permit will need to be obtained to allow 23 horses on the property, which is based on the 21 acre lot size. Mr. Fain said that the property will be used for Mr. Farrington's own use. He explained that the property will not be used for commercial use such as riding lessons or horse shows.

Mr. Fain showed the Board the site location. He added that there are quite a lot of wetlands on the property. He said the pond is regulated as a local wetland and the river is regulated by New York State. Mr. Fain stated that this application is not being presented to this Board for wetland issues, but because the lot is over 10 acres in size.



## **II. LAND USE- ACTIVE – 2. 263 Bedford-Banksville Road**

He added that the facilities will be upgraded and most of the construction is concentrated in the five acre lot. He explained that the existing indoor arena will be upgraded and the two existing small barns will be removed to allow construction for a 16 -stall stable. Mr. Fain said that the existing house is dilapidated and will need to be refurbished. He added that the existing shed will be converted into a living space for a groom. He said that a hunter jumper ring will be constructed, which is the only new addition on the site. He reiterated that there will not be any disturbance to the wetlands. Mr. Fain said that many trees have been proposed to be removed. Mr. Frain said that most of the tree removals are black locust trees, which are considered to be an invasive tree. Mr. Fain described the life span of the black locust tree for the Board. He said there will be a total of 429 trees proposed to be removed, of which 92% are black locust trees. Mr. Fain said that they will be adding trees for screening purposes. He said that there are no healthy specimen trees that are proposed to be removed.

Mr. Fain said that Valerie Desimone, Planning Board Secretary, is planning a joint site walk with the Planning Board, Conservation Board and the Town Board. Ms. Black said yes, she had received information that it is being set up for September 28, 2021.

Mr. Fain said that he had tried to minimize disturbances as much as possible and a Stormwater management plan will be submitted. Mr. Fain showed the Board the septic system and new well location. Mr. Krupa reiterated to the Board that there are no wetland disturbances on the site. Mr. Krupa asked where the 429 tree removals are. Mr. Fain said that the tree removals are located throughout the site. The tree removal plan was shown to the Board. The Board was very impressed with the submitted plan.

Mr. Fain said that the area was farmland and was cleared in and or around 1930. He said that there are some specimen trees located near the wetland. Mr. Carthy asked if the application includes clearing all of the trees. Mr. Fain said that they tried to save as many trees as they could, but the existing trees are not in good condition. Mr. Fain said that they found a permit issued from 1972 that said it was used as a horse farm, but prior to that it was used as a farm. Ms. Black asked if there could be additional tree plantings. Mr. Fain said yes, they will try to add more trees to the plan. Mr. Krupa asked Mr. Benedict about the black locust trees. Mr. Benedict said that these trees are like a weed. Ms. Black asked if anyone is currently living on the property. Mr. Fain replied no. The Board said that they were looking forward to the upcoming site walk.

## **III. LAND USE-PENDING**

1. 360 Main Street - No discussion.

2. 1 Kent Place – No discussion.

#### **IV. WORK PROGRAM**

1. Website Improvements – Discussion – No discussion.
2. Planning Board Report – August 9<sup>th</sup> – Craig Benedict said that there were no Conservation Board related projects at the August 9<sup>th</sup> Planning Board meeting.
2. Planning Board Report- September 13<sup>th</sup> - Craig Benedict sent a synopsis of the September 13<sup>th</sup> meeting to the Board via e-mail.
3. RPRC Report- August 3<sup>rd</sup> – Craig Benedict attended the August 3<sup>rd</sup> RPRC meeting. He said that the meeting was very short in duration.
3. RPRC Report - August 17<sup>th</sup> - Craig Benedict attended the August 17<sup>th</sup> RPRC meeting. He said that the meeting was very short in duration.
4. RPRC Report – September 9<sup>th</sup> – Jane Black attended the September 9<sup>th</sup> RPRC meeting. Ms. Black gave a brief synopsis of some of the applications. She referred to a project on S. Sterling Road that included tree replacements. She added that the Board may review an application located at 35 Bedford-Banksville Road. Ms. Black said that there are several issues on the site.
4. RPRC Report – September 21<sup>st</sup> – Ms. Black attended the September 21<sup>st</sup> RPRC meeting. She said an application on Seymour Place West proposed many tree removals and an application located on Piping Brook Road has many issues such as an un-permitted generator pad, shed and landscaped areas on the neighboring property and on New York State Department of Environmental Conservation (NYSDEC) regulated wetland area. Ms. Black said that some of the items done without a permit will require a variance. Mr. Krupa asked if there will be fines associated with this. Mr. Berra said yes, there will be. Ms. Black said that these issues arose as a result of the homeowner trying to sell his home. Ms. Black said that the RPRC said this applicant will have to present to this Board and the Zoning Board of Appeals (ZBA).

#### **V. NEW BUSINESS**

1. ”See Something- Say Something” – No discussion.
2. Submission Checklist – Homeowner Requirements – No discussion.

#### **VI. CORRESPONDENCE & ANNOUNCEMENTS**

1. RPRC Zoom meetings – Ms. Black informed the Board that all RPRC meetings will be in Zoom format until January 2022.



## **VII. OLD BUSINESS**

1. Tree Ordinance – Discussion – Christopher Carthy, Planning Board Chairman, and James Jenson, Planning Board member, joined the Board for a discussion on changes to the current tree ordinance.

Mr. Krupa explained that the Board is concerned about the current tree ordinance as they feel it is inadequate compared to those of other towns in the surrounding areas. He added that the Board had requested that the Planning Board invite the Board into any discussions surrounding tree removals. Mr. Krupa said that the goal is for the current ordinance to become a little stronger. He added that this may take some time and it is a process. Mr. Krupa said it would be great for us to work together to protect this great, bucolic town that we live in and would like for it to remain like this for our lifetime. Ms. Black said that she wanted to add that the Architectural Review Board (ARB) and the Open Space Committee (OSC) are in support of this discussion as she has spoken to many of the members. Mr. Krupa said that the Town Board had encouraged this Board to move forward with a discussion. He added that the entire Planning Board and Mr. Kaufman, Town Planner, are doing a terrific job, but at this point we can only suggest tree plantings when trees are removed. He added that we cannot require any tree plantings to be done. Ms. Black said that at the last several meetings of the Residential Project Review Committee (RPRC) the Committee has recommended tree plantings in place of removals and all of the feedback from town residents has been favorable to the requests made. George Drapeau asked about the results from the presentation that was made. Mr. Jenson said that this is the reason why they are here. Mr. Carthy agreed and referred to the bullet points that were submitted to the Planning Board. Mr. Krupa said that the first point made was met with hesitancy by Mr. Kaufman and asked Mr. Berra if the request of this Board to be consulted on tree removals would be met with disapproval. Mr. Krupa said that a referral to the Board is required for tree removals in the wetlands but the Board would like to be able to review any proposed tree removals that are large in scale. He added that the Conservation Board would not have the final recommendation, but the Board would like to weigh in on those discussions. Mr. Krupa reported that Mr. Kaufman said that this may not be allowed. Mr. Carthy said that the Planning Board could tacitly ask the Board to opine on an issue which was what Mr. Kaufman was referring to. Ms. Black said that originally we were looking for something informal. Mr. Jenson said that the charter of the Conservation Board may have to be changed. Mr. Krupa said the NYSCAC created these Boards and the town has restricted the purview of this Board through the years to focus on wetland issues. He added that the charter in section X & Y states that Conservation Boards can consult on environmental issues. Mr. Krupa said that the State of New York wants Conservation Boards to weigh in on tree removals, but the town has restricted this. Mr. Berra said he is in support of the Board and thinks it is great that the Boards are working together on this subject. Adam Barnett asked how we can advance an update to the town code to change the charter. Mr. Krupa said that it is a process and the Town Board referred our Board to the Planning Board to have this discussion. Ms. Black said that normally Mr. Kaufman drafts any changes for any town code for the Town Board approval.

**VI. OLD BUSINESS- CONTINUED – 1. Tree Ordinance- Discussion**

Mr. Berra said the approach could be to compile a brief proposal of what the Board is trying to accomplish with some specific items included. Mr. Krupa agreed. Mr. Berra offered to read over the proposal and talk with Supervisor Schiliro about placing this subject on a Town Board Agenda. He added that a work session may be scheduled to discuss the proposal.

Andy Block said Mr. Berra is talking about the process leading up to a draft of an ordinance change. He added that ultimately, if everything proceeds, it certainly is the best pathway and could be relatively easy to do if we suggest the language. Mr. Krupa said that the recommendation from the Town Board was to get a consensus from the Planning Board. Mr. Carthy said he thought it would be best to draft some language for the Planning Board and it should be codified. He added to use the informality piece would not be a good idea as Boards memberships change all the time. Mr. Carthy said the language is not difficult, it just needs to be codified. Ms. Black said yes, we just need to figure out what “triggers this” to be used. Mr. Block referred to a document that Mr. Drapeau sent to the Board that has passed muster from other towns. Mr. Drapeau said yes, let’s start with a strategy. He added that he felt it was important to have a tree arborist/tree officer who is a paid consultant and he felt the oversight on public property would be alleviated. Mr. Carthy said that there is an existing code that refers to a tree board. He added that this Board was to oversee public property and report to the Recreation Department. He said that that Board has not been constituted. Mr. Carthy said that he had a conversation about this with Kevin Hay, Town Administrator, about constituting that Board with the Conservation Board. Mr. Krupa said that the tree board did exist for a very short time when John Fava was the Chairman of the Conservation Board. Mr. Krupa added that there was pressure to cease this as pruning of trees etc. was slowed down because the highway department had to wait until Mr. Fava was able to look at the trees in question. Mr. Krupa said that the role of the tree board was never codified because it was decided that the highway department’s role was slowed. Mr. Krupa said that we have a different administration now and maybe this is the time to do this.

Mr. Carthy said that maybe it should be a board in that role and not one person. Mr. Drapeau said they could compile a commission to opine on important decisions that come before the town, which would raise a high bar expressing concern about trees. He added that it sends a very important message to the community about tree removals. Ms. Black said that one place to start is to “tweak” the current ordinance. She referred to a section of the code permitting the removal of ten trees per year and felt that the number of tree removals should be tied to the actual size of the lot. Ms. Black added that if tree removals are done, a requirement for replacement trees should be added to the town code. Mr. Drapeau agreed with Ms. Black. Mr. Krupa said that someone needs to look at the proposed tree removals because residents could say that the trees are dead, when in fact, they are not dead.

Mr. Barnett said that it seems that the consensus is that we all want better requirements for trees. He said that this Board could absorb the tree board.



**VI. OLD BUSINESS – 1. Tree Ordinance- Discussion**

He added that we can compile a memo with the outcome of what we would like to change and send it to the Planning Board and let Mr. Berra review it before sending to the Supervisor. Mr. Block said that a lot of what has been spoken about is on private versus public land, so a tree board wouldn't solve this issue. He added that a tree board wouldn't solve the private tree removals. Ms. Black agreed. Mr. Barnett said that the principal North Star is that we want to save trees.

Mr. Krupa said the bullet points are a good starting point as to where we can begin. Ms. Black said a simple thing is to change the wording in the town code. She added that some tree removals can be handled by the RPRC. Mr. Krupa said there are a lot of grey areas. Mr. Carthy said to construct the language that this Board wants so that we can articulate to the Town Board what we would like to change. Mr. Block said he agreed with Mr. Carthy's suggestion but wondered if this is the direction to take. Mr. Carthy said that we need to submit some language as to what the Board would like to see; otherwise the Town Board will refer you back to the Planning Board. Mr. Berra suggested talking to Mr. Kaufman about what the limitations are. Ms. Black also suggested talking with Mr. Kaufman about this subject. Mr. Krupa said we are not addressing stricter penalties and giving "more teeth" to the Building Inspector. Mr. Carthy said that the building inspector has the "teeth" to do this; but not the man power. Ms. Black said that there are penalties for tree removals now. Mr. Carthy said yes, but the fines are very low in cost. Mr. Berra referred to tree removals behind Elide Plaza. Mr. Carthy said yes, that was offensive. Ms. Black referred to a house located on Round Hill Road that had clear cut trees on the property. Mr. Carthy said yes, the tree removal penalties can be updated. Mr. Drapeau said he has seen many developers along Route 22 remove trees and have no plans to build anything. Mr. Carthy said that for the most part the permit process does protect that process. He added that a developer can start a project and not finish it and there is no protection for this. Ms. Black said yes, that happens time and again. Mr. Carthy said yes, normally a resident would know not to take down 18 trees without a permit. The Board members referred to various applications where tree removals were involved. Mr. Carthy said he thought it was too much to ask the Building Inspector to inspect all tree removals. Mr. Drapeau said by having a tree officer this would alleviate the building inspector's time. Discussion on various applications continued. Craig Benedict agreed that there should be a tree inspector or a tree czar for inspections. Mr. Carthy shared a scenario with the Board where an applicant wants to cut down seven trees to allow more sunlight on the property and not propose any tree plantings, is that a worthwhile general right of an applicant. The Board replied no, this should not be allowed.

Mr. Krupa said in his opinion, there is a difference in personal liberty and civic responsibility. Mr. Krupa added that we have to consider global warming and our community. He said they may have the right to remove trees, but to make a recommendation for tree plantings in the place of the tree removals. Mr. Carthy agreed. Ms. Black said yes, this is where we could ask for a 1- to 1 tree removal/tree planting approval. Mr. Krupa said yes, this is why we need a person or a Board to oversee this grey area.



**VI. OLD BUSINESS – 1. Tree Ordinance- Discussion**

Mr. Carthy said that the RPRC can do this. He added that we just want to get a mitigation plan on the “books”. He said that this is a huge step forward to getting this started and have the RPRC or Planning Board “police it”. Ms. Black said yes, we do have a Conservation Board liaison at all Planning Board and RPRC meetings. Mr. Carthy said yes, and the mitigation plan will be big start in this process. Mr. Benedict reiterated there should be stipulations for tree removals and tree plantings in the revised section of town code. Mr. Drapeau said that he was recently on a site walk on a very hot day and how cooling it is under the trees. Mr. Drapeau said that the homeowner can prune the trees versus taking trees down. Mr. Krupa said that there needs to be an arbiter who can declare that a tree is dead or not. Ms. Black said yes, this should be verified thru the building department. Mr. Drapeau said that a developer may say that a tree is dead; we need to see verification from a professional. Ms. Black referred to the application located at 263 Bedford-Banksville Road with 400 plus tree removals and 47 trees planted. Mr. Krupa said that we should put pen to paper on all of the discussed items. Mr. Carthy asked how a homeowner can remove tree dead trees without a permit. Mr. Jenson asked if they could submit to the RPRC. Discussion ensued. He said that it is asking a lot of the building department to opine on every tree removal. Mr. Krupa said yes, we will craft a letter. He added that he wanted to convey that the Board is not against tree removals, however, he would like for it to be done responsibly so that our community remains intact for generations to come. He referred to a comment made by Mr. Benedict that referred to comments made by homeowners, who were worried about trees located too closely to their houses. He reiterated that if an applicant is going to remove a tree, it needs to be mitigated. Mr. Berra suggested listing 10 “worse cases” of tree removals. Mr. Carthy said you can show how this proposed code could have changed the outlook on those cases. Mr. Krupa said that this was a great idea. Mr. Block said that there should be a zero added to the current penalty costs for tree removals. Mr. Krupa referred to the Trump property. Ms. Black said that we should draft a memo and show it to the Planning Board. Mr. Krupa referred to an updated plant list located on the Conservation Board section of the North Castle website. Mr. Jenson asked if everyone is clear on what actually a tree is. Mr. Krupa said yes, some residents may be unclear on the role of trees in our environment. Mr. Carthy said he spoke to the arborist in Greenburgh and found the conversation very enlightening, but the Town of Greenburgh’s scenario will not work in North Castle. Mr. Krupa said the Board is looking to amend the existing tree code. Mr. Krupa profusely thanked Mr. Carthy and Mr. Jenson for attending the meeting. Mr. Carthy asked the Board to send a draft memo to the Planning Board and some of the Planning Board members will come back to the next meeting to discuss.

2. Airport Campus – A brief discussion about the Airport Campus memo took place. Mr. Krupa thanked the Board for all of the Board’s hard work.



**VIII. ADJOURNMENT-**

Craig Benedict made a motion to adjourn the meeting. George Drapeau seconded the motion. All of the Board members unanimously approved the motion.

**IX. DATE OF NEXT MEETING: November 16, 2021.**

Julie Mucker, Secretary  
Conservation Board

File Name: Minutes92121