



**TOWN OF  
NORTH CASTLE  
CONSERVATION  
BOARD**

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**THE 460<sup>TH</sup> REGULAR MEETING OF THE NORTH CASTLE  
CONSERVATION BOARD  
ZOOM MEETING  
FEBRUARY 16, 2021  
7:30 P.M.**

**Corrected**

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

**NOT PRESENT:** All members were present at the meeting.

**GUESTS:** Julianna Alzate and Steven Velardo, owner, represented- 164 E. Middle Patent Road

**I. MINUTES:** Minutes of the regular meeting, which was held on January 19, 2021, were approved as corrected. The motion was made by George Drapeau and was seconded by Craig Benedict. All were in favor.

**II. LAND USE: ACTIVE – 1. 164 E. Middle Patent Road** – Julianna Alzate and Steven Velardo, owner, presented this application, which is located at 164 E. Middle Patent Road. Ms. Alzate explained that the existing structure of the house and foundation will remain the same; however it will rise up in height. She stated that at the last meeting on January 19, 2021, there was an issue as to where the buffer line was located. She referred to the revised plan submitted which shows the new delineated buffer line based on a conversation with the Town Engineer. Ms. Alzate shared the plan via Zoom to the Board.

Ms. Alzate explained that the buffer line was changed based on a conversation with Mr. Cermele, Town Engineer. The buffer delineation was changed on the basis of the GIS maps as they were unable to enter the neighboring property to delineate the wetland. She showed the Board the new buffer line. She added that disturbance in the buffer includes the new septic system, a new yard, a shed and tree removals. Ms. Alzate said she is proposing mitigation to restore this area and the mitigation totals the 2 to 1 Town requirements. She added that the proposed disturbance is 1,055 square feet and has proposed about 18,500 square feet of mitigation. Ms. Alzate said the proposal includes planting of trees, shrubs, grasses, ferns and perennials. Ms. Black said it looked like a very nice mitigation plan but asked if all of the plants proposed are deer resistant. Ms. Alzate replied yes. Ms. Black asked if rhododendron plants were deer resistant. Mr. Benedict said no, they are not deer resistant. Ms. Alzate said she would substitute this plant with another species.

## **II. LAND USE: ACTIVE- CONTINUED – 1. 164 E. Middle Patent Road**

Mr. Benedict said that all other plants proposed were deer resistant. He added that the burlap bags covering the plants must be removed before planting as the burlap bags are treated to not deteriorate and if the burlap remains on the plan it will inhibit the growth of the roots. Ms. Alzate said she would remove 1/3 of the burlap. Mr. Benedict said that the entire burlap on the plant must be removed. Ms. Alzate agreed. Mr. Benedict said it is common practice now. Ms. Black thanked Mr. Benedict and remarked that this was good to know. She added that she lives near this property and noticed that the wetland is located on the other side of the ridge and is pleased that planting will be done in the downslope to the wetland so that it is protected. Ms. Black asked if there is a chart on the plan which explains the square footage. Ms. Alzate replied yes, and showed the Board the enlarged chart which shows the disturbance and mitigation amounts.

Mr. Krupa agreed that it is a good plan. He asked Mr. Norden, Kellard Sessions Consulting, if the wetlands have been confirmed. Mr. Norden replied that they were confirmed by the GIS data. He added that if we wanted a more comprehensive delineation they would need the wetland to be flagged, and the wetland is on the neighboring property. He stated that the current delineation is as accurate as it can get. Mr. Norden said that all of the plantings proposed are native species. Ms. Black said she would like to have a note added on the plan which states that all burlap bags should be removed from any plants before planting. She added that a substitute is needed for the rhododendron listed on the plan. Jose Berra, Town Board liaison, asked if he could enter the property for a site walk as he was concerned by an existing sign that deters anyone from entering the site. Ms. Black said that if a property is before the Board all members are allowed to enter the site at any time. Mr. Velardo, owner, replied that anyone on the Board could enter the property at any time and offered to meet Mr. Berra at the site. Mr. Berra thanked Mr. Velardo and said he didn't want to impose on him and would peruse the site on his own. Mr. Berra asked if this property adjoins the Mianus Preserve. Ms. Black replied yes. Mr. Berra asked if the Mianus Gorge Preserve has received notification on this proposal. Ms. Black said that neighbor notification is the Planning Board's purview. Mr. Berra asked if a public hearing has taken place. Ms. Black said that the Planning Board needs our recommendation first before a public hearing can be planned. Mr. Velardo said yes, this is correct and added that this site is in a scenic roadway and a public hearing will be held. He added that a notification from the Zoning Board of Appeals was sent due to the need for a variance. Mr. Berra said he was not trying to cause any difficulties and just wanted to make sure that the Mianus Gorge Preserve was notified. Ms. Black asked the Board if a recommendation could be made provided the minor changes to the plan are added to the plan. Adam Barnett made a recommendation for approval and was seconded by John Krupa. The Board unanimously approved this application. Ms. Alzate and Mr. Velardo thanked the Board.

Mr. Barnett added that this will be a big improvement to the area. Ms. Black agreed. Mr. Barnett said that it is an eyesore at this time.

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

**1. Musket Court** - No discussion.

**2. 360 Main Street** – No discussion.

**3. 1 Kent Place** – No discussion.

**4. 9 Sterling Road N.** – Ms. Black referred to the discussion at the January 19<sup>th</sup> Conservation Board meeting when the Board agreed that more information was needed in order for the Board to make a recommendation on this application. Ms. Black said she contacted Adam Kaufman, Town Planner, and John Krupa contacted Roland Baroni, Town Attorney, to gather information on constructed pools built entirely in a wetland.

Mr. Krupa said he spoke briefly to Mr. Baroni in general terms about setting a precedent. He added that Mr. Baroni suggested that any recommendation be done not in broad terms but on a project by project basis. Mr. Krupa said that Mr. Baroni stated that if the Board does approve the application, we need to state the reasons. He added that Mr. Baroni referred to two prior applications that were similar to this application and thought that one application was approved and one was not. Mr. Krupa said Mr. Baroni shared his opinion that yes, this is very delicate application and we should be careful in setting precedence.

Ms. Black spoke to Mr. Kaufman, Town Planner, who said it was difficult to pinpoint a project without an address. She added that Mr. Kaufman did refer to the Luppino application which was briefly discussed at the November meeting in this context. She added that Mr. Kaufman said an application for a non-essential amenity is typically not approved if the construction is disturbing a pristine wetland buffer which has not been previously disturbed. She added that he said the pool in the Harris application is located where the wetland has been disturbed and the Board would need to weigh if the new disturbance would improve or detract from the wetland. Ms. Black said if we do approve this application, we would need to specify that this property is unique and state the reasons why the wetland would be improved so that another future application can't use this as a precedent.

The Conservation Board Secretary, Julie Mucker, asked Ms. Black how the Board would like to proceed with this application so that she can notify Nathaniel Holt. Mr. Drapeau said it shouldn't be too difficult to find permits for previous pool applications. Ms. Black said that we need to provide specific addresses. Mr. Drapeau said we could look at google maps for Whippoorwill Road. Ms. Black said we could ask Valerie Desimone, Planning Board Secretary, for more information. Ms. Black referred to the Luppino application. Mr. Drapeau stated that Whippoorwill Road is a very sensitive area. Mr. Barnett said we could find other instances of similar proposals, but our objective is to protect the natural world and not to approve pools.

### **III. LAND USE- PENDING- CONTINUED – 4. 9 Sterling Road N.**

He added that the wetland buffer in this case would be improved and since the area is already disturbed, he felt that he could make a recommendation for approval based on this objective and would be favorably disposed to proceed with this application. Mr. Barnett asked Mr. Block if he would be amenable to drafting a memo stating this. Ms. Black agreed with Mr. Barnett. Mr. Block said he wasn't sure he entirely agreed with Mr. Barnett's statement. He added that the homeowner bought the property as is and was not in favor of constructing a pool on this site. Mr. Krupa said he agreed with Mr. Barnett's view on net gain, but would like to see the site naturalized. Mr. Block said yes, and this can be done without constructing a pool. Ms. Black said that the existing conditions are very poor and far from natural. Mr. Block said he was unsure if he is voting or abstaining and is concerned about setting precedence. He added that he would like to see more information. Mr. Berra said that this is a "slippery slope" and could set a precedent. He added that if precedence is set a future applicant could say they are being unfairly treated. Mr. Barnett asked if there was reasonable justification on the Luppino project. Ms. Black said that the Secretary had sent out the memo to the Board which showed a positive recommendation for that project. The Secretary offered to send a copy of the plan to the Board and to re-send the memo. Ms. Black said she would speak to Ms. Desimone about similar applications. Ms. Black asked Mr. Benedict if he was not in favor of approving this application. Mr. Benedict replied yes, this is correct. He added that all of the Board members made good points and agreed with Mr. Berra that this could lead to a "slippery slope". Mr. Drapeau said that he has attended various site walks and didn't think that this was intense development and added that the improvements may not otherwise be made. He added that there is a lot of impervious surface on this site and we don't know what ramifications of this may be. Ms. Black said that any additional surface runoff from this pool will be dealt with by infiltrators. Mr. Norden said the numbers would have to be figured out, but any runoff would need to be collected in infiltrators or rain gardens. Ms. Black said yes, the pool construction would not create more runoff. She added that the Planning Board can vote anyway they want and the applicant may just repair the septic system, rather than remediate the property, if the pool application is denied. Mr. Block said it would be unfortunate to leave the rest of the property in such an unattractive state.

The Board decided that they need more information and once this is received the Board will discuss this project further. Ms. Black suggested contacting John Fava to get his insight on the project. Mr. Krupa reiterated that we should be diligent as the power is in our hands and more research is almost irrelevant. He added that we have the ability to give our opinion to the Planning Board without further research. Mr. Block said that the Board had voted and it is a 2-2 split vote and he would like to receive more information. Ms. Black said we can contact Mr. Fava for his insight and we can ask Ms. DeSimone and Mr. Carthy for further information. Mr. Drapeau said he felt Mr. Fava could provide insight on this project and help guide us. The Secretary offered to send the application to Mr. Fava for his review if he was amenable to the request from the Board.

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

**1. Website Improvements – Discussion** – No discussion.

**2. Planning Board Report -** Jane Black attended the January 25<sup>th</sup> Planning Board meeting via Zoom. She sent a report of that meeting to the Board via e-mail. John Krupa attended the February 8<sup>th</sup> Planning Board meeting via Zoom. He sent a report of that meeting to the Board via e-mail. Mr. Krupa informed the Board that the Cole Drive application will be presenting to our Board soon. Discussion ensued on various projects.

**3. RPRC Report** – Jane Black attended the February 2<sup>nd</sup> RPRC meeting via Zoom. She sent a report of that meeting via e-mail. Adam Barnett attended the February 16<sup>th</sup> RPRC meeting via Zoom.

#### **V. New Business -**

**1. Board Sign up for RPRC & Planning Board 2021 -** The Board signed up for the RPRC and Planning Board meetings for the 2021 year.

**2. “See Something- Say Something”** – John Krupa said he and Ms. Black had discussed that if someone sees a project or has concerns- we can discuss them as a Board. Ms. Black said we could possibly send out informative e-mail blasts to residents in the community.

**3. “In lieu of Mitigation” Funds** – Craig Benedict stated that he had a conversation with Adam Kaufman regarding the bank fund for payment in lieu of mitigation. He asked Mr. Kaufman if the bank directly resulted in improving the wetlands and wetland buffers. The reply was yes. He added that the Planning Board decides where the funds get used. The formula is \$2.00 per square foot of mitigation. Ms. Black said that Kellard Sessions Consulting can adjust the formula as listed in the town code. Mr. Barnett asked if there is a list of completed projects to show where have the funds have been used. Mr. Benedict told Mr. Kaufman that he felt that Wampus Brook Park needs improvement and to be cleaned up. Mr. Kaufman agreed. Mr. Berra said we could provide potential sites to the Planning Board. Mr. Drapeau said he spoke with David Buchwald to improve Wampus Pond. Mr. Berra suggested speaking with Roland Baroni or John Kellard for insight. Ms. Black said the pond on Route 128 is owned by Westchester County.

**VI. Correspondence & Announcements** – No Discussion.

**VII. Old Business**

1. Tree Ordinance - A synopsis of potential changes or a tree commission was compiled by George Drapeau and was sent to the Town Board on January 21<sup>st</sup>. The Board commended Mr. Drapeau's efforts on this information. Ms. Black asked Mr. Berra if the Town Board would be discussing this. Mr. Berra said he was not aware of this and said it may be a good idea to contact the Planning Board.

**VIII. ADJOURNMENT-** A motion was made by Adam Barnett to adjourn the meeting and John Krupa seconded the motion. All Board members approved the motion. The meeting adjourned at 9:18 P.M.

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

Julie Mucker, Secretary  
Conservation Board

Minute Name: minutes22521