



**TOWN OF
NORTH CASTLE
CONSERVATION
BOARD**

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**THE 479TH REGULAR MEETING OF THE NORTH CASTLE
CONSERVATION BOARD
HERGENHAN PARKS AND RECREATION BUILDING
40 MAPLE AVENUE
TUESDAY, FEBRUARY 21, 2023
7:30 P.M.**

Corrected

PRESENT: Craig Benedict; George Drapeau III; Vincent Giordano; John Krupa, Co-Chairman; Nora Manuele; José Berra, Town Board Liaison; David Sessions, Kellard Sessions Consulting.

NOT PRESENT: Adam Barnett; Jane Black, Co-Chair; Andy Block; Erin Nenadich.

GUESTS: Diane Durand Rosenberg, owner, Stephen Lopez represented- 1613 Old Orchard Street.

Jami Colombino & Antoinette Ruocco, Esq. represented – 4 LedgeWOOD Place.

Christopher Carthy, Planning Board Chairman and James Jensen, Planning Board member- attended the meeting to discuss tree code changes.

I. MINUTES: - Minutes of the regular meeting, which was held on January 17, 2023, were approved as corrected. A motion was made by George Drapeau and was seconded by Craig Benedict. All were in favor.

II. LAND USE: ACTIVE 1. 1613 Old Orchard Street – Stephan Lopez represented this application, which is located at 1613 Old Orchard Street. Mr. Lopez said the property is over an acre and is almost entirely in the wetland buffer. He said there is an abundance of water that crosses the road and enters this property. Mr. Lopez showed photos of the site from many years ago. Mr. Krupa asked how many years ago. Mr. Lopez introduced the owner, Diane Durand Rosenberg to the Board and explained that she owns the property across the street. Ms. Durand said her family has owned the property since 1941. She said they have placed a fence in front of the property and have planted fruit trees and plants on the site in the front. Mr. Lopez said the property is full of phragmites. He said the wetland and wetland buffer are in the front of the site and the rear of the site is wooded. He proposed a seed mix once the phragmites are removed. Mr. Lopez said the neighboring property owners have lawn up to this property line. Mr. Lopez said Beth Evans had delineated this property and said the neighboring property owners have encroached on this property.

Mr. Lopez said the proposed house is as close as possible to the wetland setback along with a driveway and a small lawn area.

II. LAND USE: ACTIVE- CONTINUED 1. 1613 Old Orchard Street

Mr. Lopez said the proposed infiltrators would be installed beside the proposed deck. He said this would be a very unmanicured property due to the size of the property. He said the owner has been discussing building this house for themselves. Mr. Krupa asked Mr. Lopez to show the wetlands and the wetlands buffer on the plan. Mr. Lopez complied. Mr. Krupa said the property is 97% in the buffer and said the house and driveway is 100% in the buffer area. Mr. Lopez said yes, it is in the wetlands buffer and not in the wetlands. Mr. Krupa said the driveway is slightly in the wetland buffer. Mr. Lopez replied yes. Mr. Krupa said he wondered if this would be allowed according to NYSDEC standards. Mr. Lopez said the State has been favorable on restoring a native environment and removing phragmites. Mr. Lopez said he didn't want to get into a whole history on phragmites, but this variety is very aggressive and very difficult to control. Mr. Giordano pointed to an area and asked if this was the sewer location. Mr. Lopez replied yes. Mr. Giordano asked if the setback is 150 feet, could the house could be pushed forward. Mr. Lopez said he wasn't part of the design, but he would ask the engineer. Mr. Giordano said it seemed the house could be moved forward and remove it from the buffer area and also provide more lawn area in the backyard. Mr. Lopez said the engineer design included site distances and provide a turn around in the driveway on the site. He said it would be dangerous to back out of this driveway onto the roadway. Mr. Krupa asked when the residence on 1615 Old Orchard Street was built. Ms. Durand Rosenberg said her father built the house in the 1940's. Mr. Krupa said Google Maps showed a portion of the property is located in the Cranberry Preserve and asked where it is located. Ms. Durand Rosenberg said the property is adjacent to the preserve and the Preserve is adjacent and located in the rear of the property. Mr. Benedict asked if the property is flat. Mr. Lopez said it is fairly wooded and flat. He said the street portion is slightly raised. Mr. Giordano asked how the significant amount of runoff on this property would be addressed. Mr. Lopez said there are storm drains on the roadway and a piped drain is under the roadway and thought the issue may have been corrected. David Sessions, Kellard Sessions Consulting, said he thought there were 2-catch basins located at the proposed driveway location. He said the catch basins may be collecting the road runoff. Mr. Lopez said there would be swales around the proposed house and any runoff from the property and leaders from the house would enter the infiltrators. Mr. Krupa said a site walk is needed. He said if this was under current environmental codes this would not be a buildable lot. He said it was deemed buildable and now it is our job to be as responsible as possible.

David Sessions said phragmites spreads with Rhizomes and are impossible to get rid of and said that Beth Evans is involved so this would be done in a favorable manner. Mr. Krupa asked if anything would change if the state were involved with this application. Mr. Sessions said he didn't think anything would change. He said the state agency has many "turnovers" in employees. He said each new person would have a different idea on how to proceed. Mr. Sessions said Ms. Evans is involved with this and she is very knowledgeable in this area. Mr. Drapeau asked about of pervious and impervious surfaces. Mr. Lopez referred to a center box on the plan which shows the information.

II. LAND USE: ACTIVE- CONTINUED – 1. 1613 Old Orchard Street

Mr. Lopez said there was a comment made from the Planning Board to reduce the size of the house, but reducing the size by 200 ft. would not make a large difference. Mr. Lopez said the disturbed area is 13,122 sq. ft. and the total mitigation is 26,000 sq. feet. Mr. Drapeau said this was done just “under the wire” and asked how he did this. Mr. Lopez said he spent a lot of time on CAD-clicking and moving things in order to achieve this. He said he was very surprised that he had to go so far in the rear of the property. He said the footprint is pretty economical and the plan makes sense. He said removing the phragmites from the site is a very positive environmental factor. Mr. Krupa said there has been many discussions among the Board to improve properties or “leave them as is” and he was in favor of improving properties. Mr. Krupa said a site walk will be scheduled. Mr. Lopez asked if he would be contacted. The Secretary said she would contact him via e-mail with the date and time of the site walk.

II. LAND USE- ACTIVE- CONTINUED 2. 4 Ledgewood Place – Jami Colombino represented this application, which is located at 4 Ledgewood Place. She said she was presenting in place of Blythe Yost, who was unable to attend. Ms. Colombino provided each Board member with a small sized plan.

She said the proposed red maples along the driveway have been removed from the plan. Ms. Colombino said the proposal includes a mix of red bud trees and Amelanchier trees in place of the proposed maple trees. She said 42 creeping junipers will be replaced with native grasses. She said 65 forsythia plants have been replaced with 5- gallon sweet pepper bush. Mr. Krupa said a site walk was done and the Board has been to the site a number of times over the years. Mr. Benedict said he was at the site walk last month and addressed the proposed plantings on the right side which is very rocky, and the tree proposals would not thrive in this area. Ms. Colombino said the red oaks and clethra have been removed from the plan. Mr. Giordano said there were about 40 substantial trees cut down and asked if smaller trees can be planted in this area. Mr. Benedict commended this suggestion. Mr. Benedict and Mr. Giordano agreed that if the stumps are removed this would allow smaller trees to be planted in this area. Mr. Benedict said yes, and the mitigation plan would meet the 1 to 1 mitigation requirement. Ms. Colombino read aloud notes from Ms. Yost who said they are aware that they are not meeting the required mitigation ratio, but they are requesting that the Board override the mitigation code and allow the mitigation plan submitted suffice.

Antoinette Ruocco, Esq. introduced herself and said it would be helpful to go thru the comments made by Ms. Yost. Ms. Colombino said the notes state they will replace the native steep slope mix with annual rye grass. She said the notes from Ms. Yost explain that it is not native, but it will provide rapid germination and stabilization that the native steep mix does not allow. Mr. Sessions said all of the Ernst seed mixes are great, but do not germinate quickly. He said it could take 2 or 3 growing seasons to get robust ground cover. He suggested supplementing with the Ernst seed mix to alleviate erosion. Ms. Colombino said yes, they could use the rye grass and supplement with the Ernst seed mix.

II. LAND USE: ACTIVE- CONTINUED 2. 4 Ledgewood Place

Ms. Colombino said Ms. Yost said they would add erosion control measures to the plan. She added they will enhance the maintenance plan as per the Board's request. Mr. Sessions said a schedule for invasive removals needs to be done. Mr. Benedict asked Mr. Sessions if he had been to this property. Mr. Sessions replied yes. Mr. Benedict said it seemed there was fill brought to the site and is concerned if the fill is contaminated and asked if the fill had been tested. Mr. Benedict said he thought a substantial amount of fill has been brought onto the site. Ms. Colombino said they will have the fill tested. Mr. Sessions said yes, this should be done. Mr. Krupa asked if this needs to be approved by Kellard Sessions Consulting. Mr. Sessions replied yes. Mr. Krupa asked if he had seen the fill brought on the site. Mr. Sessions said he hadn't seen it and asked when he thought this was done. Mr. Benedict said it probably was done when the house was demolished. Mr. Drapeau said yes, this was probably done at that point. He said the significance of this site is that it captures runoff and holds it and the role of those tree removals that were done is very significant. He stated that he is very concerned about the area in question for the neighboring properties and what has been proposed is a "band-aid". He added that he is a very strong advocate of the 1 to 1 mitigation requirement. Mr. Sessions said roots of trees will look for a path of least resistance and act like sponges and follows fissures. He said if roots were growing in soil, it has a propensity to uptick absorbing runoff verses rocky conditions. He added that soil is better in water uptake verses in fissures through rocks. Mr. Drapeau asked if the pool is necessary. Ms. Colombino said they would like to keep the pool in the plan. Mr. Drapeau said yes, historically there was a pool and there were also trees on the site. He said there needs to be consideration for something that was taken and these trees should be given back. Ms. Antoinette Ruocco, Esq. said she wanted to clarify if the Board wanted trees planted where the pool location is. Mr. Krupa said the idea about mitigation is that if you take something, you need to plant something. Ms. Ruocco said she understood, she wanted to clarify for herself. Mr. Krupa said the Boards responsibility is to leave the ecosystem as good as they can get it and having 42 trees removed has damaged the ecosystem. He said the Board would like to see the site in as good a condition as they can get it to be. Mr. Krupa said they would like to find some common ground. Mr. Krupa referred to the comment made by Mr. Drapeau about his strong proponent for the 1 to 1 mitigation requirements and agreed that he personally would not be satisfied unless the mitigation plan follows the code of 1 to 1 mitigation. Mr. Benedict agreed with the comment made by Mr. Drapeau and Mr. Krupa. Mr. Benedict said it is a beautiful property. Ms. Colombino agreed. Mr. Giordano asked if the proposal for the house was rotated and the pool location was closer to the house it would be entirely out of the buffer. Mr. Krupa referred to the disturbance amount on the plan which is 8,800 sq. ft., so if you were to rotate the house it would reduce the amount of mitigation and disturbance to the wetland buffer. Mr. Krupa asked if the owner was using the original footprint of the house. Mr. Drapeau said this has been changed. Mr. Krupa asked the Board if they had any more comments. Mr. Drapeau asked if the mitigation plan will be revised. Ms. Colombino replied yes. Mr. Krupa asked Ms. Columbino to consider rotating the house. She said she would talk to the owner.

III. LAND USE- PENDING

1. 65 Bedford- Banksville Road - No discussion.
2. 1700 Old Orchard Street – No discussion.

IV. WORK PROGRAM

1. Website Improvements – No discussion.
2. Planning Board Report - Ms. Black attended the January 30, 2023, Planning Board meeting. A synopsis of the meeting was sent to the Board via e-mail. Mr. Giordano attended the meeting with Ms. Black.
2. Planning Board Report – Mr. Giordano attended the February 13, 2023, Planning Board meeting. He said 4 Tripp Lane was on the agenda. He said about 4,000 cubic yards of fill was brought on the site and 170 trees were removed. Mr. Giordano provided additional information on this application to the Board.
3. RPRC Report – Craig Benedict attended the January 24, 2023, RPRC meeting. Mr. Benedict said 116 Cox Avenue and 1 Fox Ridge Road may be presenting to the Board. Mr. Berra asked Mr. Benedict about the application located at 116 Cox Avenue. Mr. Berra said he was unsure if the applicant had done required planting on a former permit issued.
3. RPRC Report - Craig Benedict attended the February 7, 2023, RPRC meeting. A synopsis of the meeting was sent to the Board via e-mail.
3. RPRC Report - George Drapeau attended the February 21, 2023, meeting. A synopsis of the meeting was sent to the Board via e-mail. Projects pertaining to the Board included 6 Gene Curry Lane.

V. NEW BUSINESS

1. "See Something-Say Something" – Mr. Drapeau referred to a parcel on Whippoorwill Laurel which removed a tremendous amount of trees and planted a lawn area. He said the area is located above wetlands. Mr. Krupa said he will contact Robert Melillo, Building Inspector.
2. Tree Discussion- - Christopher Carthy, Planning Board Chairman, and James Jensen, Planning Board Member, attended the meeting to discuss the current tree codes. Mr. Krupa commended the hard work done on this topic by Mr. Drapeau and Mr. Benedict.

V. NEW BUSINESS – CONTINUED- 2. Tree Discussion - He said that he was thankful that Mr. Carthy and Mr. Jenson were able to attend this meeting so that this discussion could take place. He said the current tree codes lack “teeth”.

Mr. Krupa asked Mr. Drapeau to take over the discussion. Mr. Drapeau said we are having this conversation because so many trees are being removed illegally. He referred to an RPRC meeting he attended where Robert Melillo, Building Inspector, said he had been to 9-building sites for illegal tree removals. Mr. Drapeau said there is a need for new protocols that homeowners and real estate agents understand. He referred to Orchard Drive where three new houses were built that neutered the trees and ruined the beautiful street. He said so many beautiful canopies of trees are being removed. Mr. Carthy said yes, we need to be careful of tree removals at RPRC meetings when they go straight to the Building Department. Mr. Krupa said in his observation, it seems there is a momentum to speed up the process so that the Building Department is not bogged down. He said he is very concerned about this. Mr. Drapeau said a lot of this is theory and guidelines from other towns. He referred to a site on Gene Curry Drive which has proposed the removal of 20 trees. He said that this was not true, and it is actually 56 proposed tree removals. He said the entire site would be neutered. He said in the outline there would be a cost if there is a large amount of trees to be removed. Mr. Jensen asked if the suggestion is to apply a dollar amount. Mr. Drapeau said if 56 trees are to be removed then the same number of trees need to be planted and if you can't plant that number of trees because of the development the homeowner should have to pay into a fund. Mr. Krupa said this is not radical as many other communities have this process in place. Mr. Carthy said the selling point is putting a number on cost is a big consideration and it could be a very expensive number. He referred to a project on Byram Ridge Road where many trees were removed and a house hasn't been built on the site for a long period of time. Mr. Benedict said education on tree codes need to be sent to realtors, landscapers and arborists so that they are aware of the tree codes. Discussion ensued on illegal tree cuttings in neighborhoods in the area. Mr. Giordano asked if there should be penalties if trees are taken down in setback zones. Discussion ensued on tree removals that have been done that permanently changed the streetscape. Mr. Giordano commended the work done by Mr. Drapeau. He asked about tree removals in septic expansion areas. Mr. Carthy said we have a landscape setback for 15 ft. and asked if there should be a tree setback. Mr. Benedict said there could be a 50 ft. setback on new construction. Mr. Carthy said side yard setbacks are 30 feet. Discussion ensued. Mr. Drapeau said we are looking for prevention and communities have different values on trees. We need to let the community know that we value our trees. He said trees should not be allowed to be removed until they have a building permit. Mr. Carthy said they are not allowing this anymore. Mr. Krupa agreed. Mr. Jensen referred to a zoning ordinance that guides how much of the lot can be occupied and what parameters remain. Mr. Carthy said the zoning chart shows the maximum and minimums allowed and this chart could be modified to include tree removals. Mr. Krupa said yes, we could put this in building codes and favored this idea. Nora Manuele said that we could mail information to new homeowners. Mr. Krupa agreed and said education is essential. Mr. Krupa commended Mr. Carthy and Mr. Jensen's participation. He favored the idea of tree codes joining the building codes.

V. NEW BUSINESS – CONTINUED- 2. Tree Discussion –

Mr. Carthy referred to 9 Cole Drive and the repercussions on this site. He said if a 12-inch tree is removed then three 4-inch trees are planted, it is not favorable. Discussion ensued. Mr. Krupa said other communities apply reverence to mature trees. Mr. Krupa said our community needs to apply reverence to mature trees. Mr. Drapeau said we need to start a community campaign to preserve trees. Mr. Jensen said he perused the New York State tree codes that have tree boards or a commission. Mr. Carthy said yes, we can combine it and not start a new Board. Mr. Carthy said if you get the tree codes “on the books” then the education would start. Mr. Krupa said we went before the Town Board several years ago with changes to the current tree codes and at that time the Town Board was not in favor of any changes. He said the current Town Board has said they would support changes in the current tree codes. Mr. Carthy said we need to perfect what we would like to see “on the books” then worry about on how to make the public aware of the changes. Mr. Krupa said the current tree codes lack “teeth” in penalization. Mr. Carthy said yes, we need to codify and clarify what can and what can’t be done. Mr. Carthy said we have to be careful to not overwhelm the Building Department. Mr. Krupa said this could be perceived as anti-development and he would like to see responsible development. Mr. Krupa asked Mr. Carthy how this should proceed. Mr. Carthy said the penalties for tree removals should be increased and increased by a “per day” manner. Mr. Krupa said the fines need to be a deterrent and updating the penalties would achieve this. Mr. Giordano said the penalty should be levied to the homeowner and the contractor. Discussion ensued. Mr. Benedict said he knows that arborists have removed trees in the area without a license or insurance. Mr. Carthy said we need to have a concise report to present to the Town Board. Mr. Drapeau said we should involve Susan Roth in writing the report.

3. Pamphlets – Mr. Krupa said education is so important and we need to implement a pamphlet to send to residents on many topics. Mr. Benedict said he met with Ms. Black and has sent some “do’s and dont’s” to Ms. Nenadich for her review.

4. End of Year (EOY) Report -Mr. Krupa said he hopes to submit the EOY report to the Town Board in the next few weeks. A copy of the report was sent to Ms. Nenadich for her review.

VI. CORRESPONDENCE & ANNOUNCEMENTS

1. Site Walks – A site walk was scheduled for 1613 Old Orchard Street on February 27, 2023, at 8:00 a.m. Mr. Krupa asked the Secretary to send the site walk information to the Board, Mr. Lopez and Ms. Roth via e-mail.

2. PFAS Meeting - Mr. Berra informed the Board that a PFAS meeting has been scheduled on March 1, 2023, at 7:00 P.M.

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VII. OLD BUSINESS – No discussion.

VIII. ADJOURNMENT – A motion to adjourn the meeting was made by Nora Manuele and was seconded by Craig Benedict. All were in favor. The meeting was adjourned at 10:10 P.M.

IX. DATE OF NEXT MEETING: March 21, 2023. Snow Date: March 22, 2023.

Julie Mucker, Secretary
Conservation Board

File Name: Minutes22123