



**TOWN OF
NORTH CASTLE
CONSERVATION
BOARD**

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**THE 484TH REGULAR MEETING OF THE NORTH CASTLE
CONSERVATION BOARD
HERGENHAN PARKS AND RECREATION BUILDING
40 MAPLE AVENUE
TUESDAY, JULY 18, 2023
7:30 P.M.**

Corrected

PRESENT: Adam Barnett; Craig Benedict; Jane Black, Co-Chair; George Drapeau III; Vincent Giordano; Nora Manuele; Erin Nenadich; David Sessions, Kellard Sessions Consulting; José Berra, Town Board Liaison.

NOT PRESENT: John Krupa, Co-Chairman.

GUESTS: Peter Gregory and Seth Ticehurst represented – 14 Tallwoods Road.
Andrew Monaco and Hugh Harris, owner, represented – 9 Sterling Road N.
Paul Sysak and Kasey Brenner represented – 100 Business Park Drive.
Steven Marino represented – 25 Edgar Road.

I.MINUTES: Minutes of the regular meeting, which was held on June 27, 2023, were approved. A motion was made by George Drapeau and was seconded by Craig Benedict. All were in favor.

II. LAND USE: ACTIVE 1. 14 Tallwoods Road – Peter Gregory and Seth Ticehurst represented this application which was located on 14 Tallwoods Road. Mr. Gregory said the proposal included installation of new in-ground pool. He said the size of the proposed pool is 18x30 and is located in the rear of the house. Mr. Gregory said the majority of the rear yard is located in a steep slope and wetland buffer area. Mr. Gregory showed the watercourse and buffer line on the plan to the Board. He said they tried to find a suitable location for the pool but there were limitations due to the existing septic system and property setbacks. He showed a location that was previously chosen but it brings the proposed pool closer to the wetland. He said the owner is trying to preserve as much of the lawn area as much as possible.

Ms. Black asked if a wall structure is at the top of the slope. Mr. Gregory said there is a split-rail fence at the top of the slope. He said the owner would like for the existing playset to remain. He said the proposed pool location preserves the lawn and playset area however, it encroaches further into the buffer area. Mr. Gregory said the pool would be surrounded by a retaining wall which would contain some of the fill brought onto the site.

Mr. Gregory said they have proposed a stormwater/drawdown plan for the proposed pool. The total amount of disturbance is 5,600 sq. ft. of which 5,200 sq. ft. enters the buffer area. Ms. Black asked about the setback line on the plan.

II .LAND USE ACTIVE- CONTINUED 1. 14 Tallwoods Road

Mr. Gregory showed the septic system location. Ms. Black said a site walk is needed. Mr. Gregory said yes, the Planning Board is setting up a joint site walk. He said he has not received a confirmed site walk date from the Planning Board. Ms. Manuele said the site walk dates and times available were all during the daytime. Ms. Black said there is a fairly substantial patio around the pool location. She said when pools are located entirely in the buffer, the Board looks at pools as an optional amenity. She said the Board does not like to see optional amenities in the buffer area. Ms. Black said other applications have pools located either in or partially in the buffer have reduced patio areas and proposed pool locations as close to the house as possible. Mr. Gregory said the patio does surround the pool in its entirety on all sides. Ms. Black said in her personal view, this is a fairly extensive patio and should be reduced in size to reduce its impact. Mr. Giordano said it seems like a large pool and patio and asked if fill was being brought onto the site. Mr. Gregory said they will be removing excess material from the site. Mr. Giordano said he understands the owner wanting to keep the playset and lawn, but the pool location is in the buffer, so concessions may need to be made. He said 5,600 sq. ft. of disturbance is in the wetland and buffer for an amenity that is very large. Mr. Gregory said the Board will see why this location was selected for the proposed pool. Ms. Black said yes, but there may need to be compromises made in order to proceed. She said the patio should be minimized.

Mr. Sessions asked if the New York State Department of Environmental Protection (NYSDEP) had been notified. Mr. Gregory replied yes, the NYSDEP said the proposal is considered a non-ancillary permit, therefore it is not under their jurisdiction. Mr. Sessions said the question is if the application is within 100 feet of a watercourse. Mr. Gregory stated the DEP said pools do not require permits from their office. He said a letter has been received from their office.

Mr. Drapeau asked if any trees have been proposed to be removed. Mr. Gregory said they have proposed 3-trees to be removed. Mr. Ticehurst said the mitigation plan includes planting some native plants, which he showed to the Board on the area on the plan colored in green. He said the purple area on the plan is where they will plant cinnamon fern and ostrich fern as a buffer between the pool and the wetland. Mr. Ticehurst said they have proposed a total of 10,733 sq. ft. of material. He said they have proposed a five-year monitoring and maintenance plan. Ms. Black said this area is currently undisturbed. Mr. Ticehurst replied yes.

Ms. Black asked whether for the area to be staked out before the site walk. Mr. Sessions asked when the area was flagged as he hasn't confirmed the wetland boundaries. Mr. Gregory said the site was flagged in the spring. Ms. Black said some board members may not be able to attend the chosen site walk date and may need to walk the site at various times. Mr. Gregory said yes, he understood and will pass this information on to the owner.

2. 9 Sterling Road N. -Andrew Monaco represented this application, which is located at 9 Sterling Road North. Mr. Hugh Harris, owner, was present at the meeting.

II. LAND USE: ACTIVE – CONTINUED – 2. 9 Sterling Road N.

Mr. Monaco said they have removed witch hazel from the plan as directed by the Board. He said they have added cinnamon fern, spotted joe pie weed, viburnum, button bush and lobelia to the plan.

Ms. Black said the pool location has been moved closer to the house and the size of the pool deck has been reduced. Mr. Giordano asked if the pool deck is impervious. Mr. Harris, owner said yes, it will be constructed with Trex decking. Ms. Black said a site walk was done and many members were present at the site walk. Mr. Harris said that the Board wanted the witch hazel removed from the plan along with details on the plan for the proposed rain garden.

Ms. Black said she is looking for comments from the Kellard Sessions memo. She said a five-year maintenance plan is needed. Ms. Nenadich asked about the bamboo on the property. Ms. Black asked whether a barrier could be used to prevent the bamboo from migrating. Mr. Sessions said they hadn't spoken about removing it from the site. Mr. Harris said he maintains the bamboo and his neighbors make sure he is vigilant in maintaining the bamboo. He said he maintains it from the streetside and on the inside of the property. Mr. Giordano asked if a barrier should be utilized to stop the spreading of the bamboo. Mr. Sessions said it is very difficult to do as the bamboo roots are very deep. He said it does help, but it is very hard to contain the roots. Mr. Giordano said he was concerned that the bamboo will overtake the proposed plantings. Mr. Monaco said yes, this needs to be maintained. Mr. Sessions said he is not supporting this but a chemical treatment could be utilized to stem the bamboo from overcrowding the proposed plants. Ms. Black said yes, she didn't support this as the bamboo is located in a wetland area. Mr. Giordano asked Mr. Monaco his opinion whether the proposed plants will thrive in this location. Mr. Monaco said the bamboo will take some of the nutrients in the soils but he felt that the owner will maintain the bamboo. Ms. Black asked Mr. Benedict if he had any thoughts on this issue. Mr. Benedict said he hasn't been on this property, so he didn't want to comment. Mr. Drapeau was concerned about the property being sold and if deeds or restrictions could be put in place. Mr. Harris said he doesn't plan on selling the house. Mr. Harris said a bond could be put in place to make sure that he is maintaining the plants. Ms. Black said yes, we could recommend this to the Planning Board. The Board liked this suggestion. Ms. Black said she assumed a monitoring plan extends to a new homeowner. Mr. Session said it sometimes falls apart when a house gets sold. He said they can memorialize this in the paperwork. Mr. Harris said he is amenable to putting a \$10,000 bond in place. Ms. Black said the homeowner has done everything they can do on this site and it is up to the Board to decide on this application. Mr. Barnett said given the evolution and the response from the homeowner we should support this application. Mr. Harris said he is improving the wetlands and will be removing a failed septic system which will improve the site by 100%. He said he also constructed the driveway with permeable pavers. Ms. Black summarized the events of this application which has been before the Board on many occasions.

A motion was made by Adam Barnett and was seconded by Vincent Giordano. Craig Benedict abstained. The motion was approved.

II. LAND USE: ACTIVE- CONTINUED

3. 100 Business Park Drive – Paul Sysak and Karen Brenner represented this application, which is located at 100 Business Park Drive. He said they have received site plan approval for a single-story structure of about 75,000 sq. feet. He said proposed mitigation associated with that application was before this Board and approved in 2021.

He said a revised application has been submitted with a reduced footprint with the same amount of mitigation proposals. He showed the plan to the Board. He said the blue area on the plan was the previous proposal with a current reduction of 16,000 sq. feet. Mr. Sysak said the Planning Board has asked for additional parking spaces on the site. He said they are trying to get approvals from the Town Board for proposed pickleball courts on the left-hand corner of the site. He said they have added additional parking spaces to the proposal but these parking spaces do not encroach into the wetland. Mr. Sysak said the perpendicular parking spaces are not in the wetland buffer.

Mr. Sysak said they have proposed a compensatory storage area the rear of the site and this was mandated by the Town Board. He said there is about 5,000 sq. ft. of disturbance into the buffer. He said this is mostly rubbish removal and invasive plant removals. Ms. Black said the buffer intrusion and disturbance amount is not changing and this is before the Board because of the site plan revision. Mr. Barnett said it looks as if parcel is very intensely developed. Mr. Sessions said yes, this is not a in a residential zone. Mr. Sysak said the site is allowed to have 30% building coverage and this plan is at about 20% coverage. Mr. Barnett asked if this includes parking. Mr. Sysak replied yes. Mr. Session said the “flip” side of this is they need to provide compensatory storage on this site. Mr. Barnett asked if there was additional screening added in the front of the site. Mr. Sysak replied yes. Mr. Barnett asked how many pickleball courts have been proposed. Mr. Sysak replied that 11-courts have been proposed. Ms. Black said the memo received from Kellard Sessions suggested a site walk but she felt that the Board has been to the site several times and one is not needed. Mr. Sessions said the area is paved and asked if a structure will be removed. Mr. Sysak said yes, a barrier will be removed outside the buffer. He said the trash structure has been removed out of the buffer area.

Mr. Giordano asked if this application was before the Planning Board due to a violation issued. Mr. Sysak replied yes. He said the former applicant and owner removed 38 additional trees that was in excess of the approval. Mr. Giordano asked Mr. Gregory to show the Board the tree removal locations. Mr. Giordano said the Town Board approved the tree planting locations and asked why the trees were not being re-planted in the same area that they were originally removed from. Mr. Sysak said the Board wanted a “softer” view and a buffer in between the neighboring property. Mr. Giordano asked why the trees were removed. Mr. Sysak said he was not part of that and didn’t have an answer. Mr. Giordano said you should look at your professional you hired as they were hired to remove 200 trees and removed 238 trees. Mr. Sysak said he didn’t think it was done maliciously. Mr. Giordano said he strongly felt that the trees that were removed should have been replaced in the same area and the decision to plant these trees in another area was incorrect. Ms. Black said she was unaware of this.

II. LAND USE: ACTIVE – CONTINUED – 3. 100 Business Park Drive

She said the replacement trees are being planted in the area that the town has approved. He said the town wanted the industrial uses together and the recreation uses separated. He said the self-storage area is on the right side along with the proposed loading dock. Mr. Drapeau said this is a “chicken and an egg” situation. He said he wanted the concerns voiced by Mr. Giordano noted for the record. Ms. Black said we could note them in a memo. However, she said we are looking at the buffer and mitigation and they have not changed since the initial plan. She said the tree removals are a concern, but this is not under our review for this application. She reiterated that we could add a comment to an upcoming memo. Mr. Drapeau asked if 38 trees are being replanted. Mr. Sysak said he doesn’t have a full count of trees, but there are more than 38 trees being replanted. Mr. Giordano said the neighbors to the south voiced their concern that the trees were not being replanted in the original area. Mr. Sysak replied yes, we have had numerous meetings with the neighboring property owners to alleviate their concerns. Ms. Black suggested adding a comment on the tree replacement and tree removals. Mr. Sysak said there is a new owner and he is trying to do everything in the proper manner. Ms. Black said our role is to comment on the buffer disturbance and mitigation plan which remains unchanged. She said she thought that this application should be re-approved for the third time and get sent back to the Planning Board.

A motion for approval was made by George Drapeau and was seconded by Craig Benedict. All were in favor of the motion.

4. 25 Edgar Road – Steven Marino represented this application, which is located at 25 Edgar Road. Mr. Marino provided an aerial photograph for the Board. He said the residence was constructed in the 1990’s. Mr. Marino said during construction there has been encroachment into the buffer area. He said terracing was done without permits. He said there used to be a grassed slope down to the pond. Mr. Marino said there have been concrete blocks placed on the site. He said there was planting on the other side of the pond and those plants are non-native plants. He said they are replacing those trees on the rear of the pond and have submitted a mitigation plan. Mr. Marino said they looked at previous aerial photos to come up with a “number” for how many trees were planted and removed. He said the number for the mitigation they came up with is 2.02. He said 23,000 sq. ft. of trees have been replanted and 11,000 sq. ft. were disturbed outside of the permitted area. He said the buffer disturbance in the 100 ft. buffer has not impacted the pond. He said they will remove a section of the pathway to provide a wildlife corridor for the critters to enter and exit the pond. He said they have provided a detailed rain garden plan that will treat a 25-year storm. Mr. Marino said they will abandon mowing up to the pond edge and will plant herbaceous species along the pond edge.

Mr. Marino said there has been an inventory of the area at the rear of the pond and there have been 98 trees planted. Mr. Marino said there are 7 non-native trees planted in that area. He said there are 27 trees which will remain and 34 non-native trees will be removed and replaced.

II. LAND USE: ACTIVE – 4. 25 Edgar Road

Mr. Marino said additional trees will be planted alongside the maintenance road such as black tupelo, tulip poplar, red maples and sweet gum. He said 224 trees were planted in the terraced area and are mostly evergreen trees. Mr. Giordano said the area is mostly wooded and clear cut. He said by planting 200 trees the Board doesn't know many trees were removed and can't count this as a positive without the negative connotation.

Mr. Marino said he was asked to quantify the number of trees that were removed and planted. Ms. Black asked if this was shown in green on the plan. Mr. Marino replied yes. Ms. Black asked if the orange-colored area on the plan represents the non-native trees which will be re-planted with native trees. Mr. Barnett asked why this is a good plan. Mr. Marino said he thinks this is a good plan because areas with non-native trees will be replanted with native trees. Mr. Barnett said you are removing invasive trees and planting a lot of native trees in their place. He asked what else is favorable about this plan. Mr. Marino said a no mow zone has been created and maintained around the pond edge. He said the pond edge will have herbaceous plantings around the edge of the pond. Ms. Nenadich asked if the gravel pathway will remain. Mr. Marino replied yes. Mr. Giordano said there has been a rain garden proposed. Ms. Black asked Mr. Marino to show the Board the rain garden location. Mr. Marino showed the rain garden location to the Board. Mr. Giordano asked how the next owner is going to keep track of all of these plantings. Ms. Black said all of the non-native plants are being removed so this shouldn't be a concern. Mr. Sessions said the intent of the five-year maintenance plan is once the plants are planted our office takes photographs as a baseline or starting point and we compare those photos from year to year. He said there is an update on a yearly basis. Mr. Sessions said their office will be present during construction of the rain garden and plantings. Mr. Giordano said he wanted to be clear for the next homeowners. Mr. Marino said permits usually transfer to the next homeowners.

Ms. Black said there were some items on Kellard Sessions memo that were not addressed. She said the plant species and locations for the pond edge need to be notated on the plan. Mr. Sessions said this needs to be done for the record and that it should include quantities and spacing. Ms. Black said there needs to be a planting plan for the rain garden. Mr. Marino said he needs to speak to Mr. Riina about this issue. Ms. Black a table should be placed on the plan showing the plant species name, botanical name and root size. She said a five-year maintenance plan must be notated on the plan. Ms. Black said that a permit is required from the New York State Department of Environmental Conservation (NYSDEC). Mr. Marino said he walked the site with a representative from the NYSDEC and they only wanted to see rain garden details. Ms. Black said she didn't think the Building Department could issue a permit until the DEC issues a permit. Ms. Black said this application has been seen many times and we could recommend a conditional approval with a note of the five missing items.

A motion for approval was made by George Drapeau and was seconded by Erin Nenadich. All were in favor of the motion.

III. LAND USE- PENDING

1. 65 Bedford Banksville Road – No discussion.

2. 11 Piping Brook Lane – No discussion.

IV. WORK PROGRAM

1. Planning Board Report – Craig Benedict attended the July 10, 2023, Planning Board meeting. Applications pertaining to the Conservation Board included 14 Tallwoods Road, 14 Middle Patent Road and 23 Bedford Banksville Road. Mr. Benedict said the Summit Club was also discussed.

2. RPRC Report – Nora Manuele attended the July 10, 2023, RPRC meeting. Applications that pertain to the Conservation Board included 7 Thornewood Road and 34 Creemer Road.

2. RPRC Report – Erin Nenadich attended the July 18, 2023, RPRC meeting. Applications pertaining to the Conservation Board included 15 Elizabeth Place and 25 Carolyn Place. Ms. Nenadich said there was a wall, fill and landscaping done surrounding the pond without a permit for the 25 Carolyn Place application.

V. NEW BUSINESS

1. "See Something Say Something" – Mr. Giordano informed the Board that there is a property near his house that has new construction and no silt fence has been installed. He said after a heavy rain fall there is debris and clutter in the stream. Mr. Giordano said yards of material entered the stream beds due to no silt fencing on Hunter Drive. He said he has contacted the Building Department and no action has on the site has taken place. Ms. Black said there was illegal fill placed on a site from 2022 that is still on the property. Mr. Berra suggested contacting the Town Administrator. Mr. Giordano said he should not have to do this. Discussion ensued. Mr. Giordano provided the address for Mr. Berra. Mr. Sessions said he would speak about this with the Town Engineer and John Kellard.

VI. CORRESPONDENCE & ANNOUNCEMENTS

1. Site Walk - A site walk was scheduled for 11 Piping Brook Road on August 15, 2023, at 6:00 P.M.

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VII. OLD BUSINESS

1. Tree Codes – A work session was held at 6:00 P.M to discuss changes to the current tree codes. Adam Barnett, George Drapeau, Craig Benedict and Jane Black attended the work session.
2. Pamphlets – No discussion.
3. Website Improvements – No discussion.

VIII. ADJOURNMENT – A motion to adjourn the meeting was made by Craig Benedict and was seconded by Adam Barnett. All were in favor of the motion.

IX. DATE OF NEXT MEETING: September 19, 2023.

Julie Mucker, Secretary
Conservation Board

File Name: Minutes71823