

**Philipstown Conservation Advisory Council  
Town Hall, 238 Main Street, Cold Spring, N.Y. 10516  
November 13, 2007**

The CAC held its regular monthly meeting on Tuesday, November 13, 2007 at the Town Hall. The meeting was opened at 7:30 p.m.

Present:	David Klotzle, Wetlands Inspector Lew Kingsley Eric Lind M.J. Martin
Absent	Tim Donovan Mark Galezo Andy Galler

**Regular Meeting**

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**Open discussion re: Hopkins:**

Mr. Lind said that most of the audience was most likely at this meeting regarding the Hopkins issue and he thought that should be addressed first and that Mr. Shea would give an update as to where the CAC stood on the issue.

Mr. Shea introduced himself. Councilman Richard Shea. He said there were numerous reports received regarding the Hopkins site and therefore he, Mr. Klotzle and Ms. Martin went out to visit the site and also met with the code enforcement officer, Mr. Tom Monroe and two representatives from the Health Department and the Hopkins' engineer. One problem they had seen was a failing septic system and Mr. Shea said he thought they had put in two new 1250 gallon septic tanks and a pump ejector system and that it was overwhelming their former single pipe system.

Mr. Klotzle said that that was the Hopkins best guess, that it was a single pipe.

Mr. Shea said right and the ground was spongy and wet all along the site even though it had been extremely dry this year – therefore they went over that. The second tanks were put in illegally. We all know that now. Mr. Shea said he thought that it must have been done at the same time that the oil tank was being replaced. The CAC was under the impression that the oil tanks were being replaced but it also turned out that they were replacing two septic tanks. Mr. Shea said that they do apologize for the tardiness regarding the time lapse of being aware of that but did get right down there once it was known there was an issue or issues. Mr. Shea said that the Health Department seemed a little blasé about that and they said that the Hopkins did need a repair permit and that they were going to give them one of those and go about their business – Mr. Shea said that he and the others thought that more extraordinary measures should be taken because of the sensitivity of the site, proximity to Indian Brook and the fact that it didn't look like the Hopkins had enough room to do a proper septic system there. For that house right now one would need about 600 (?) of fields and he thought they were saying they could get about 180, so it was asked that they put in an aeration unit in with it so it would treat the effluent. All thought it was best to remedy the situation as soon as possible. The Board of Health did issue a violation and Code Enforcement Officer Mr. Monroe also issued a violation and a court of appearance and they did come into court and were given a deadline of December 4<sup>th</sup> to have all the repair work done and Mr. Shea said that there would also be a fine levied at the next court appearance.

An audience member asked how far that would be from the brook.

Mr. Klotzle said that it was 36ft. from where the tanks were illegally put in and 40ft. maximum to where the new fields would be placed up against the hillside where the evergreen trees were.

Mr. Shea said that was right and that that wasn't too far. If it is not done by the end of this month then the fines are just going to become extraordinary. Mr. Shea said he had a conversation with the building inspector today and Mr. Shea said he would like to go

down in a week or so to see how things are progressing. If things were not being done as quickly as requested then every Monday there would be an additional violation.

An audience member asked if there was any provision for inspection after the system is installed.

Mr. Klotzle said yes but that the permit that was granted allowed for a \$3000.00 escrow account to be levied on them to pay for inspection by Mr. Klotzle or anyone else the town would like to hire to go and look at them.

An audience member asked where the original septic field was.

Mr. Klotzle answered that it was right under the driveway. Mr. Shea agreed.

An audience member asked how big the fine was.

Mr. Shea said he believed it was \$750.00.

Mr. Klotzle added that the law said it could be up to \$1000.00.

Mr. Shea said it would be \$1000.00 every Monday if things did not get going.

Mr. Klotzle added that it would also be another violation.

Mr. Shea informed the audience that the law is going to change this year to make it easier to make every day a separate violation.

Mr. Klotzle said that the state does that and that it is called continuing violations.

Mr. Shea said that it is a tool we would want to have.

An audience member asked about a situation regarding Indian Brook road to the west and on the other side of the road of where the current issue being discussed is taking place.

Mr. Klotzle said that would be seen. Mr. Klotzle said he did not have the file with him but did explain that the CAC did approve it and were extraordinarily sensitive to septic.

Mr. Kingsley, Mr. Klotzle and Mr. Lind agreed that this should be looked at as soon as possible.

Ms. Martin asked when this was originally an issue.

Mr. Klotzle said approximately back in March of this year. (2007)

Someone asked about the intermittent stream and asked if it was a pump up system.

Mr. Klotzle said that if it is a pump up system located outside of his jurisdiction then he would only be able to ask informal questions and in turn expect informal answers.

Audience: Is the Board of Health involved also?

Mr. Klotzle said that the Board of Health is involved on any repair of any new or old septic field in the county.

An audience member asked why it was out of Mr. Klotzles jurisdiction.

Mr. Klotzle said that the wetland law allows him jurisdiction within 100ft of a watercourse or a wetland as defined by the law.

All said they appreciated the update on the information provided by Councilman Mr. Shea and the CAC committee members.

**Clime 82 Lake Surprise Road Tax Map #27.1-31**

Mr. Lind said that the CAC had visited the site.

Mr. Klotzle said yes that was correct.

Mr. Lind asked Mr. Klotzle about his ideas.

Mr. Klotzle said that that would be the silt fence, erosion control and to block the driveway from erosion that may run down. Mr. Klotzle asked the applicant if the new map showed the new silt fences.

The applicant said yes and the straw bails were removed.

Mr. Klotzle said that the CAC thought that the silt fence needed to pick up any silt that went down the driveway and that the one way to do that traditionally would be with straw bails.

The applicant said okay.

Mr. Klotzle said that they set across when it is not under construction with vehicles going in and out. If there is a rain in the interim and nobody is there then it should pick up that silt and Mr. Klotzle wondered why the applicant wouldn't rather move the silt fence closer to the stream.

The applicant said okay.

Mr. Klotzle explained how to put it up in a "U" shape and bend it at the ends and make it effective.

The applicant agreed and asked if the straw bails should cross the driveway.

Mr. Klotzle said yes and higher up is better because there wouldn't be as much velocity.

The applicant said okay so somewhere below the construction across the driveway when work is being done.

Mr. Klotzle said right and that he is saying both the straw bails in the driveway and silt fence here. (Pointing to map) Mr. Klotzle said to the applicant that it should be wrapped in silt fence and then put something on the driveway as well.

The applicant said right.

Mr. Klotzle said that the permit wouldn't have anything to say regarding the septic fields. And the septic field is in front of the red barn and the road as far as the applicant thought.

The applicant said that she did not find any records of fields and that it was probably an old tank. The existing well that is operative is located in the back of the hill of the driveway and that they were planning on adding any interior living space so there shouldn't be any increased demands on that and no intention...(unfinished sentence)

Mr. Lind said that there was the septic tank noted on the drawing.

The applicant said it is noted and the concrete cap is seen. That is the location of the tank but as far as any record of fields – that could not be found because of the age of the house.

Mr. Lind said that by the big red barn that it was thought that it could be located there.

The applicant said that the caretaker said that that was a cesspool system. She asked if she should revise any of the drawings and resubmit or will the CAC just write these notes...(unfinished sentence).

Mr. Klotzle said that he would just write it in.

Mr. Lind said he would make the motion to issue this permit with the minor corrections to the drawing.

Ms. Martin seconded the motion.

The vote was as follows: 3:0.

**Application of Bentkowski, 17 Genichel Road, Tax Map #27.-12-1**

(Not present at meeting)

Mr. Klotzle had expected Mr. Bentkowski to attend the meeting tonight. Mr. Klotzle said he was supposed to provide further information not necessarily at a meeting but at least in writing so that a permit could be issued.

**Application of Rossouw 15 Ox Yoke Road, Garrison – Tax Map #90.8.2-6**

(Not present at meeting)

Mr. Klotzle said that he had not heard anything. The applicant had called Michael Priano and he had taken a look at the site and Mr. Priano hadn't been happy about the site.

Mr. Kingsley said that he wanted to know when it was filled.

Mr. Klotzle said that if they were to proceed with this than they must have a core sample to see what the soils were underneath the rubble that was placed there to see if there was a wetland there initially.

**Application of Flaherty/Percacciolo 3284 Route 9, Tax Map #27.-81-4**

(Not present at meeting)

Mr. Klotzle said that some of the CAC members were there the other day and Mr. Klotzle had spoken to both of the gentlemen. Mr. Flaherty had presented a new map and Mr. Klotzle was pretty sure he would have shown up at the meeting tonight. The map that was presented was what the CAC had asked for.

Mr. Lind added that the CAC was getting a little tired of the trickling of information and finally said what the CAC needed was a certain map and asked if that is what was provided.

Mr. Klotzle said no. (Mr. Klotzle passed the new map around). Since the CAC was out there the applicant had straightened out the silt fences and cleaned them out. They were blown out but he had taken care of that. Mr. Klotzle had suggested they put a double row of wire back silt fence and the applicant did not do that. Mr. Klotzle will inform the applicant that he would be put in violation and be in court.

Ms Martin said that there were significant breaches in a couple of locations.

Mr. Klotzle said yes and that he had spoken to Mr. Percacciolo whom had yet to come into court where he would be fined \$1000.00, the maximum.

Ms. Martin asked if now the property being discussed was the adjacent property.

Mr. Klotzle said yes. (The southern piece) Mr. Percacciolo said he was very busy with football.

Mr. Lind asked (pointing to the map) if that was the current location of the trailer.

Mr. Klotzle said yes.

Mr. Lind added that it was within the 100ft of the wetland buffer.

Mr. Klotzle said yes but that it was outside the regulated area. It had started at 50ft back from the stream because that was the old law but they had gone 75feet from the stream to be on the safe side the applicants had said. Two things changed: the law changed and its associated with the wetlands of the stream which meant it wasn't just the stream but in some cases it is just 20 and 30 feet of flood land there.

The CAC discussed the structures on the map, i.e.; the trailer, the doghouse and a semi trailer.

Mr. Lind said that actually it was still quite a mess.

Mr. Klotzle said yes and that is what he and Mr. Shea had talked – the code says a fine of \$1000.00. The only other way to make it harder is to say that they are in violation; the silt fence breached and the silt is falling into the stream and that is a different violation. (Pointing to map) Now the silt fence breached over here and that is yet a different violation. The first violation is filling within 100 feet of a stream without a permit. Contributing pollution, silt and soil and introducing those into the watercourse or wetland is a second violation. The idea is to find all of the violations within the one violation here.

Mr. Kingsley said that above and beyond all of that, that land couldn't slope to the stream and have a controlled area to let it flow.

Ms. Martin added that there is supposed to be a reverse grade.

Mr. Kingsley agreed and said with controlled ponds or pools that pulls the water off and discharges it in the right manner.

Mr. Klotzle said he hoped the engineer would provide a plan with a reverse grade, some kind of design for a retaining wall....

Mr. Lind said that the committee had asked for that a long time ago – over a year ago.

Ms. Martin asked about a control date.

Mr. Klotzle said that what usually happens is that he would write a violation to Tom Monroe and state what the violation is and Mr. Monroe would send the violator a court appearance ticket and when they appeared in court Mr. Monroe would inform the judge. They are then put into the reporting setting. Then they ask what the Wetlands Inspector would like and Mr. Klotzle would give the needed information and a time frame. Then Mr. Monroe would let Mr. Klotzle and the judge know whether or not the person had cooperated.

Ms. Martin asked if the person had not remedied the situation by the control date would a violation be reissued or a fine issued every day or not.

Mr. Klotzle said no and that his experience is that they would get continuances.

Ms. Martin said but a year later we are in the same state and it seemed to her that the continuances were not working.

Mr. Klotzle said that what would be needed would be to lobby for a change in the code.

Ms. Martin said yes because that does not currently exist in the code.

Mr. Klotzle said that that was an issue that had been ongoing between twenty-five years or more and that it was not a new thing in the last couple of years.

Ms. Martin said that it was also not getting any results.

Mr. Lind said this needed to be stabilized. Mr. Lind said he had one last thing to say regarding this site, the CAC was not presented with a full plan and are not always sure what exactly the end game plan would be and what they would ultimately want.

Mr. Klotzle said that that is what is required in order to get a permit. Right now the applicant is in violation because he did not get a permit.

Mr. Lind said that hopefully if Mr. Klotzle just kept communicating with the applicant...(sentence unfinished)

Mr. Klotzle said that he would speak to Mr. Shea regarding that.

**Application of Butler, 54 Lyons Rd. (new) Tax Map #2689-027-007**

(Not present at meeting)

Mr. Kingsley asked if the CAC had looked at that site.

Mr. Klotzle said yes.

Ms. Martin said that the pond is owned with other land owners. Correct?

Mr. Klotzle said yes, that he would have to have everyone that lived on the shoreline to agree to it.

Ms. Martin said therefore the CAC could not issue a permit until the list of adjoining neighbors was seen.

Mr. Klotzle said right, that is what the application shows that he is doing, getting a complete list.

Mr. Lind said that if the pond is 1 foot deep then what benefit is cutting the vegetation.

Possibly on hold until Spring, 2008.

### **Ochsenschlager Subdivision – Planning Board Referral**

(Not present at meeting)

Mr. Kingsley asked if a new map had been made as of yet.

Mr. Klotzle said that he had had a phone call from Glenn Watson almost a month ago and he had said that they would re-do it.

### **County Line Equities – Tax Map #82.2-3-Planning Board Referral**

Mr. Klotzle said that the CAC must write a report to the Planning Board.

Ms. Martin said she would write the memo.

### **Minutes of August 14th, September 11<sup>th</sup> and October 9<sup>th</sup> CAC Meetings**

Mr. Lind made a motion to approve the minutes of October 9<sup>th</sup>, 2007 meeting minutes.

Mr. Kingsley 2<sup>nd</sup> the motion.

All in favor. The vote was as follows: 3:0.

### **Open Space Index Discussion**

Mr. Lind said he had e-mailed the CAC and hoped that when the opportunity arrived, all would be prepared if the Town Board adopted the Open Space Index and the Natural Resources Protection Plan. Mostly, the Open Space Index for this committee, so that a letter or an article in the newspaper would be appropriate at that time to present to the public the accomplishments and the goals of the CAC. It must be very timely.

Mr. Kingsley suggested a draft be prepared so that it would be easier to be on time.

Ms. Martin added that an article could be submitted to the Putnam County News and Recorder in an area that people would easily see and read.

Mr. Lind said that he would draft the article and would be receptive to any additional ideas from the CAC.

### **Discussion of Mary Anne Thiesling, Ph.D. Regional Wetland Ecologist**

Mr. Lind said he had spoken to Ms. Thiesling and she had offered to come and talk to the committee and provide information on wetlands regulations.

Mr. Klotzle said from EPA and the Corp of Engineers.

Mr. Lind said yes and that Ms. Thiesling is willing to come up and speak at the December meeting. It could be an informational presentation by Ms. Thiesling, possibly a half an hour and then questions for a half an hour.

Ms. Martin said she thought that that was very important and a great idea.

The CAC all agreed.

Mr. Lind said that she could be put on the agenda first. He would e-mail her with information.

Ms. Martin asked if a quick press release should be issued and if so she would take care of it.

Mr. Lind said yes and that that would be great if Ms. Martin would take care of that

**Mr. Steve Loria**

Mr. Lind confirmed with Mr. Loria that he had sent a letter to Mr. Shea.

Mr. Loria said yes and that he had attended a Town Board meeting regarding East Mountain Road North and felt it should be included as one of the sensitive wetland areas in Philipstown.

Mr. Lind said he did receive the letter and it is still being discussed.

Mr. Klotzle said it was called a critical environmental area.

Mr. Loria (pointing at map on board) Mr. Loria discussed the color code on the map.

Mr. Lind explained that each color explained the ranking of priority and that it is further explained on the web site.

(Mr. Loria speaks but due to the distance between him and the microphone his words were inaudible.)

Mr. Lind explains that the CAC plans to update and make changes possibly once or twice a year to the list (of priorities) as the committee learns more. As of now that is the starting point. Mr. Lind said that it is kind of a living document. There will be a process to make changes to what they have now but nothing has been adopted by the Town Board as of yet. The CAC is waiting to become a Board rather than a Committee.

Mr. Loria speaks. (inaudible)

Ms. Martin explained that the property being discussed most likely scored at least one in five in the wetlands classification or wetlands function but may not have scored in other areas or factors and that may be why it did not make the index but that that does not preclude it from being protected.

Mr. Klotzle said that also it might be added to the index eventually.

Mr. Lind said that the CAC is exploring the critical environmental areas as separate group or path to further protection.

Ms. Martin said that it was really ideal because it is kind of a little environmental gem and it may not meet the standard for the open space map because it may not rank as high regarding the functions but it certainly has significance environmentally.

Mr. Loria asked when that would be added.

Mr. Lind said that as Mr. Klotzle had pointed out earlier that the CAC has to be designated as a conservation board before they can start developing critical environmental areas.

Ms. Martin and Mr. Klotzle explained the difference between what a committee and what a board is able and allowed to do and explained the credentials. Mr. Klotzle said that it could be said that the CAC had been looking into this and have done this study and are aware that this is a particularly important area.

Mr. Lind said the CAC is just waiting to get the protections in place.

Mr. Lind suggested Mr. Loria take a look at the website and if he had any questions he could just call Mr. Lind.

All said good night.

## **Adjourn**

Mr. Lind made a motion to adjourn. Mr. Kingsey seconded the motion. The meeting ended at 9:30p.m. The vote was as follows:

David Klotzle - In favor  
Tim Donovan - Absent  
Mark Galezo - Absent  
Ander Galler - Absent  
Lew Kingsley - In Favor  
Eric Lind - In Favor  
M.J. Martin - In Favor

Respectfully submitted,

Christine Muscat

Note: These minutes were prepared for the Philipstown Conservation Advisory Committee and are subject to review, comment, emendation and approval thereupon.

Date approved: \_\_\_\_\_