

**DRAFT**  
**CONSERVATION ADVISORY COUNCIL MINUTES**

June 12, 2007

**PRESENT:**

Tim Donovan, CAC Member  
Andrew Galler, Acting Chairperson  
Mark Galezo, CAC Member  
Lew Kingsley, CAC Member  
David Klotzle, Wetlands Inspector  
M.J. Martin, CAC Member  
John Sussmeier, CAC Member

**ABSENT:**

Eric Lind, CAC Member

**GUESTS:**

Frank Bentkowski - Applicant  
Laurence Belluscio – Consulting Engineer  
Anita Chester  
Andy Chmar – Hudson Highlands Land Trust  
Russ Cusick – Philipstown Resident  
Bob Flaherty - Applicant  
Richard Shea – Town Council Liaison  
Philip Vartanian – Philipstown Resident  
Glennon Watson – Consulting Engineer  
Ray Wilson – Concerned Neighbor  
Jenifer Harriton-Wilson – Concerned Neighbor

The regular meeting of the Town of Philipstown Conservation advisory Council was held on the above date at the Philipstown Town Hall, 238 Main Street, Cold Spring, New York. The meeting was called to order by CAC Acting Chairperson Andrew Galler at 7:30PM.

Applicant: De Marchis  
Representative: Laurence Belluscio  
Tax Lot: 91.5.4-13  
Permitting Authority: Wetlands Inspector

Mr. Belluscio described the proposed project:

- Located in Continental Village

- Project is near Sylvan Pond
- Catch basin and culvert cross road from it. Silt fences and protection for catch basin are needed to protect pond.

W.I. Klotzle said that the project is adjacent to and further than the pond from than the Santucci lot. He added that several CAC members had made a site visit

Acting Chair Galler asked for comments from the committee.

CAC Member Sussmeier said that the wetland impact seemed to be minimal.

WI Klotzle said that construction runoff is the only issue, and could be controlled with coir logs and/or buried or weighted wire-backed silt fencing.

CAC Member Martin asked why the residence could not be moved up out of the buffer.

Mr. Belluscio said that the proposed location is the only way to avoid septic-location issues. He said the planned house is two bedrooms, single-story with a 1000-1200 square foot footprint.

Acting Chair Galler said/asked whether County Board of Health approval is for two bedrooms.

CAC Member Donovan asked whether the Board of Health septic approval had been grandfathered in.

Mr. Belluscio said it was.

Acting Chair Galler asked whether any CAC members felt they needed to make a site visit.

WI Klotzle said that the only wetland impact was construction related and that the pond would not be impacted, because it was going only a few feet into the buffer zone of a lake, which could be handled by silt fencing/coir logs.

CAC member Martin asked what kind of vegetation existed on the site

Mr. Belluscio described the vegetation and noted that there was no intent to cut any trees.

CAC Member Kingsley asked how the septic would be installed, given that the soil is shallow.

Mr. Belluscio said fill would be brought in.

WI Klotzle said that Planning Board had approved the project.

CAC Member Sussmeier asked whether the WI had any additional suggestions.

WI Klotzle said he had none other than for coir logs and wire-backed silt fencing and plantings, all of which had to be properly maintained throughout the life of the project.

Acting Chair Galler suggested that the permit should stipulate that the existing vegetation/trees be disturbed as little as possible.

WI Klotzle added that the the silt-fence opening that construction goes through on a daily basis should be maintained, and that silt fencing should wrap around the site.

Acting Chair Galler asked for additional comments. There being none, he asked for a motion to grant a permit with the above conditions.

CAC Member Galezo so moved. CAC Member Sussmeier seconded. The motion passed unanimously.

Applicant: Bunzel

Representative: Laurence Belluscio

Tax Lot: 90.1.1-4

Permitting Authority: Wetlands Inspector

Mr. Belluscio said the applicant had grown concerned that the location of the proposed tennis court enclosure would destroy his plantings and interfere with his swimming pool equipment, and therefore was reconsidering the enclosure's size and location. He may decide to ask to move it into or closer to the wetland. If so, he would come up with a mitigation plan to create additional wetland to offset the wetland that would be destroyed. At the moment, however, the entire project is 'kind of dead in the water' until the applicant and his contractor 'come up with a new proposal.'

CAC Member Kingsley said there would be massive wetland destruction in the buffer zone and into the wetland, and that constructing a tennis court in a wetland was 'not a good idea, legally, mentally or morally.'

CAC Member Martin concurred, because this project is merely for recreational use.

Acting Chair Galler concurred, adding that he had been 'shocked' when he had seen the initial plan.

CAC Member Donovan concurred, adding that even as initially proposed, the project was partially within the wetland buffer.

Mr. Belluscio said 'I get the sense there's strong opposition.'

CAC Member Sussmeier concurred with the other CAC members' opinions.

Acting CAC Chair Galler thanked Mr. Belluscio for his frankness.

Applicant: Rossouw

Tax Lot: 90.8.2-6

Representatives: Laurence Belluscio

Permitting Authority: Wetlands Inspector

Mr. Belluscio said:

- The project had been staked out, as per the CAC's request
- The stream bisects the plot.
- The proposed house and septic locations are the only ones possible, given the topography and the terrain.
- The proposal involved piping a stream, in order to meet Board of Health septic requirements.
- The latest drawing differed from the previous one in order to meet DOT requirements regarding the stream-piping culvert.
- As per the CAC's request, a drainage study showed that the area drained is 90 acres, and that – allowing for a 10-year storm – there is sufficient capacity.

CAC Member Donovan said that he, CAC Member Sussmeier and CAC Member Kingsley do not believe a 24" culvert is wide enough.

Mr. Belluscio said his drainage analysis indicated that the proposed culvert size was large enough.

CAC Member Donovan said that he did not believe 24" was sufficient for runoff from a very severe storm.

CAC Member Sussmeier said he was not sure planning for a 10-year storm was sufficient.

Mr. Belluscio said he could do a 25-year study, but he noted that there had been severe storms over the past year that had not caused any problems.

CAC Member Galezo expressed concern that, in the event of a very large storm, a house could get washed away. Therefore it was necessary to 'go for the worst-case scenario.'

Mr. Belluscio said that existing culverts on neighboring sites and above were performing satisfactorily and that the Highway Department hadn't had problems.

CAC Member Donovan said that it looked to him like the stream overflowed the road during last season's large storms.

CAC Member Sussmeier asked whether the proposed system was sealed.

Mr. Belluscio said that he was getting the feeling that there was too much water coming down that would wipe the house out.

CAC Member Donovan said he had personal experience of large amounts of water cascading down a hillside after a strong rainstorm and thought a larger margin for safety was needed.

Mr. Belluscio said he did not think CAC Member Donovan's concern was well-founded.

CAC Member Donovan said a lot of water was involved and disputed the details of the project with Mr. Belluscio.

Mr. Belluscio said he had dug a lot of test holes.

CAC Member Donovan said he thought that there was, indeed, good reason to be concerned, that his and other members' concerns were reasonable ones.

WI Klotzle said he, CAC Member Lind and CAC Member Kingsley had seen a good deal off runoff during their site visit, and expressed concern about the septic system.

CAC Member Kingsley said a lot of water was coming from several places.

Mr. Belluscio said his test holes indicated that there was no problem.

CAC Member Sussmeier asked when the holes had been dug.

Mr. Belluscio said they had been dug during the past six months.

CAC Member Kingsley said there was 'steady running water draining out of this area right now' near the septic system.

WI Klotzle noted that Mr. Belluscio's test hole digging had been observed by the Health Department.

CAC Member Galezo asked whether the septic could be relocated up the hill, using fill.

Mr. Belluscio said this would violate Board of Health requirements, because of the steepness of the site.

CAC Member Martin asked how the well and piping would relate to the stream bed.

Mr. Belluscio replied they would go under the stream and be cased in concrete.

Acting Chair Galler said he was somewhat concerned about having a septic expansion field in a wetland buffer and had a ‘grave issue’ about burying a long stream that runs for 6 months of the year and then is privately maintained.

Mr. Belluscio said that the culvert was plastic and easily maintainable. He added that, since it was on private property, a drainage easement might need to be granted so that it could be maintainable by the Town, ‘if they want to accept that responsibility.’

CAC Member Sussmeier noted the presence of a box before the culvert goes under the road. He thought this might pose a problem.

Acting CAC Chair Galler noted that this application posed similarly complex issues to those that had been posed by the Gainer/Segarra application, and that in that case the applicants had been asked to provide several alternative solutions before the CAC made a decision.

Mr. Belluscio said that the only alternative to what had been proposed was to ‘possibly move the house further up the hill, which might get it away from the potential of being washed out ....other than that, as far as grade is concerned, I’m handcuffed because of the septic system, because this is the only place that’s flat enough for the septic.’”

CAC Member Galezo asked whether there was any type of mitigation other than a pipe that the Health Department would allow.

Mr. Belluscio said that there was not.

CAC Member Sussmeier said that:

- He was concerned about peak flow and culvert size.
- He did not think that designing for a 10-year storm was sufficient, given the size of the watershed and the steepness of the slope.
- The proposed 3-bedroom design meant that the septic would significantly encroach upon the buffer. For this reason, he thought the house should be limited to two bedrooms, to minimize wetland impact.
- A curtain drain is needed on the southwest portion of the property in order to avoid the septic system.

Mr. Belluscio said that he thought that a curtain drain was not a bad idea and that it ‘might make some sense’ to go from a 3- to a 2-bedroom design.

Acting CAC Chair Galler asked whether the CAC’s consensus was to ask Mr. Belluscio to return with a plan based on a 50-year event, a 2-bedroom design, larger culvert diameter, and a system of curtain drains to drain water from the west side of the septic field.

CAC Member Donovan asked whether the system of pipes consistent with a 50-year event would include pipe underneath the road.

Mr. Belluscio said that this assumed 24" pipe was not enough, but that if this were necessary it would be proposed.

CAC Member Sussmeier asked what had been the Highway Department's reaction.

Mr. Belluscio said he had met with Frank Wiese, who's concern was creating positive flow for drainage.

Mr. Sussmeier asked whether the peak flow calculation had been done for both before and after the project's completion

Mr. Belluscio said he did not think the project would have a significant impact in this regard.

Acting CAC Chair Galler asked whether WI Klotzle had any observations.

WI Klotzle said he had spent a lot of time on the neighboring Gainer/Segarra property and that the runoff was very rapid, and that therefore it would be same on this plot as well.

Acting CAC Chair Galler asked whether there were other comments.

CAC Member Kingsley said he still would like to know exactly where the steady flow is coming out from underneath the proposed septic system.

Mr. Belluscio said it was ground water.

CAC Member Kingsley said that this meant it would affect the septic system.

Mr. Belluscio said curtain drains would eliminate the problem.

A revised plan will be presented at next month's meeting.

Applicant: Lanza

Tax Lot: 71.95.1

Representative: Glennon Watson

Permitting Authority: Planning Board

Mr. Watson said the project had been put in abeyance at the Planning Board because Mr. Lanza is discussing a lot-line realignment and putting a significant portion of the property into a conservation easement.

Applicant: Kaiser  
Tax Lot: 17.2.76-78  
Representative: Glennon Watson  
Permitting Authority: Wetlands Inspector

Mr. Watson said the project involved converting a 3-lot subdivision into 4-lot one, and that the driveway for one of the lots would encroach 7-feet into the buffer edge. The road presently serves a dwelling on what ‘we hope will be a 25-acre lot.’ He added that another of lot also encroaches, but is exempt from the town wetlands law. He said that remedial work would be done on both encroaching lots.

Acting Chair Galler expressed dissatisfaction with the map and said he would like to see a copy of the exemption from local regulation that had been granted to one of the lots.

CAC Member Sussmeier said the plots were located at the termination of a cul de sac and that a culvert was needed. He asked if the plan showed a culvert.

Mr. Watson said the applicant would do anything that was asked regarding road reconstruction.

CAC Member Kingsley asked how close the driveway would be to the massive ledge.

WI Klotzle said that he had no suggestions to make, save that the wetland be ‘reconnected’ when the road is reconstructed.

Mr. Watson requested he be notified when the CAC makes another site visit so that he could accompany the members.

Acting CAC Chair Galler said he would like to see a map that’s twice the scale of the existing one.

WI Klotzle said that the original is 2x scale.

CAC Member Galler said that septic field location appears to be sitting on a ledge peak while the test holes are located near the house.

CAC Member Kingsley asked how long ago the holes had been dug.

Mr. Watson said he thought they had been dug last autumn.

The CAC members agreed that another site visit was warranted.

The matter will be considered at next month’s meeting.

Applicant: Higbee  
Tax Lot: 72.2.29  
Representative: Glennon Watson  
Permitting Authority: Wetland Inspector

Mr. Watson described the project:

- Parcel on Old Albany Post Road
- House under construction
- Original plan was to put slab on grade, but owner changed mind and decided to construct a foundation and then encountered a drainage problem that needs to be relieved.
- Proposes to solve problem by connecting a drain to the footing drain and lead water away from the house, downhill across the property, through an easement and put the water into a small stream on the neighbor's property, using a small rip-wrap blanket at the end to protect the stream.

WI Klotzle said that they probably cut an underground drainage path, causing the problem.

A neighbor, Jennifer Wilson, said that the Higbees had added a driveway and filled in a stream, and encroached on a wetland.

WI Klotzle said that the 'stream' was a small pocket wetland that doesn't fall under the Town wetland law and concerned a separate lot than the one under discussion. He said he had visited the site soon after having been phoned by Ms. Wilson.

Acting CAC Chair Galler told Ms. Wilson that 'it's a separate issue, not to lessen anything you are saying, from this lot. If you have problems [with this other lot], please put your materials together and we can discuss it.'

Ms. Wilson asked about the garage.

WI Klotzle said it is outside of the buffer zone, although close to it, and downhill from the wetland.

Acting Chair Galler suggested that Ms. Wilson fully document her objections, including photographs. He reiterated that her objections applied to a separate lot and needed to be addressed separately.

Ms. Wilson asked who has jurisdiction over the well.

WI Klotzle said he thought it was the Planning Board or the Health Department.

Ms. Wilson thanked the WI and the CAC.

After noting that large trees should be marked so they would not be cut down by Central Hudson when it installed electricity service Acting Chair Galler asked for comments.

CAC Member Watson said she would like to see detailed information on the nature of the water that would drain into the stream.

Mr. Watson said it would be ground water. He said that essentially it would be water filtered through soil and would be fairly clean water.

CAC Member Donovan asked why the applicant had decided to dig a foundation rather than use a slab.

Mr. Watson said he had expected there would be a problem with a foundation.

CAC Member Donovan asked how far the water will be directed and how much water was involved.

Mr. Watson said 425'.

Ms. Wilson said enough water was involved to wash out the road on a regular basis.

Mr. Watson strongly disagreed with her assertion, saying he failed to see how a footing drain could do this.

Acting CAC Chair Galler asked Mr. Watson whether any other solution was possible, except for using sump pumps.

Mr. Watson said this is a gravity system, and that if they could not get an easement they would have to use sumping or dry wells.

CAC Member Donovan asked whether the Council should wait until proof of easement was delivered.

Mr. Watson suggested that this could be a condition of the permit.

CAC Member Martin expressed concern about a 400-foot drain getting clogged.

Mr. Watson said this was not a problem with gravity drains using fabric filters.

Acting Chair Galler expressed concerned about:

- The visual impact of cutting down trees.
- Roof drainage
- Lack of proof of an easement.

The matter will be reconsidered at the next CAC meeting.

Applicant: Tyjan Corporation  
Tax Lot: 49.4-22  
Representatives: Glennon Watson  
Permitting Authority: Planning Board

Mr. Watson said the plan had been redone (as of 6 June) to meet the CAC's road-drainage concerns by:

- Changing the contours so as to better direct road drainage to catch basins.
- Adding a seepage pit with overflow.
- Locating the driveway so as to create the least disturbance consonant with highway safety.

He also expressed willingness to create a planting plan.

Acting Chair Galler asked for comments.

CAC Member Kingsley asked whether Mr. Watson is resubmitting to the state DOT.

Mr. Watson said he had.

CAC Sussmeier said he thought the disturbance area was narrow.

Mr. Watson said he can't in good conscience say it's an insignificant amount of land, but he could find no better option.

Acting CAC Chair Galler agreed.

WI Klotzle said that a planting plan certainly could be developed to enhance the wetland and clean up invasive plants. He added that the wetland is a marginal one.

Acting Chair Galler asked what Mr. Watson would like in the way of a communication from the CAC to the Planning Board.

Mr. Watson asked for a memor to the Planning Board.

CAC Member Sussmeier said that he thought the planting plan should be left to the WI's discretion.

The CAC agreed to write a memo to the Planning Board.

Applicant: Flaherty/Percacciolo

Tax Lot: 27.-8-1-4

Representatives: Bob Flaherty

Permitting Authority: Wetlands Inspector

Mr. Flaherty said he had constructed additional silt fencing, as requested by the WI, had agreed to a 3 to 1 slope, and to a final grade of plus or minus 6”.

WI Klotzle said that the following would be required in the future:

- A final plan showing what the project will look like when finally completed, showing grading details, embankment maintenance, finished grade, etc.

The matter will be considered at next month's meeting.

Applicant: WB Phillipstown LLC/Quarry Pond Road

Tax Lot: 16-1-38

Representative:

Permitting Authority: Planning Board

Town Councilman Shea said that a Phillipstown LLC representative will appear at next month's meeting with a full site plan.

Applicant: Kim

Tax Lot: 27.12-1-3

Representatives: None

Permitting Authority: Wetlands Inspector

Neither the applicant nor her representative appeared. Pending notification of the applicant's return from abroad, this application no longer will be considered inactive.

## **Additional Matters:**

Applicant: Bentkowski

Tax Lot: 27.-12-1-1

Representative: None

Permitting Authority: Wetlands Inspector

This matter was not an agenda item. The Wetlands Inspector said he wanted it to be presented in a preliminary fashion and considered formally at the July CAC Meeting, by which time Mr. Bentkowski should have submitted a formal application. He explained that the application was related to a violation that Mr. Benkowski is in the process of mitigating. The violation concerns a slope at the rear of his house that abuts a wetland.

Mr. Bentkowski had mistakenly cleared vegetation within the buffer zone. When informed by WI Klotzle that he was in violation of the Wetlands Law, Mr. Bentkowski had probably installed a buried, wire-backed silt fence and halted.

Mr. Bentkowski explained that he was asking for permission to:

- Keep fill where it had already been dumped.
- Make the area more usable by planting appropriate vegetation.
- Keep vegetation cleared from the base of the slope, where there currently is poison ivy.
- Maintain an open area in the flood plain/wetland.

WI Klotzle said that the area had mistakenly been cleared of wetland vegetation and that the applicant wants permission to keep the area open. He said that his ‘instinct’ was to leave the impacted area alone. He said that Mr. Bentkowski had not intentionally destroyed a wetland, but instead had done what people, including his neighbors, had done 25 years ago, but which is not permitted under current law. WI Klotzle added that a mitigation study from a wetland expert and a soil study would be required, but that if the affected wetland area were left alone, it was likely to return to its original state. He explained that Mr. Bentkowski would have to apply for a permit and would need to explain how he proposed to keep the bottom of the slope from continually washing into the wetland.

CAC Member Sussmeier asked how much fill had been used.

Mr. Bentkowski said that a lot had been used.

CAC Member Sussmeier (????) suggested that Mr. Bentkowski hire a design professional and that his plan include a before and after topo, and that in the interim he needed to plant the affected area with suitable vegetation to protect the wetland as well as maintain a wirebacked silt-fence.

WI Klotzle also discussed work on a Planning Board referral, the Wassil Property. He said that PB cooperation had been good and that the project involved bridges over two streams and reptile and amphibian culverts.

Acting CAC Chair Galler said that, for the record, he thought the original plan was far superior to the one currently being implemented in accordance with Planning Board requirements because the current design damages the most important part of the wetland. He added that in this case, as in some others, a shared driveway was the best solution from an environmental perspective.

CAC Member Sussmeier said that he and other CAC Members who had made a site visit agreed with Acting Chair Galler. He said that he felt that WI Klotzle was handling a bad situation in the best way he could.

Councilman Shea asked the CAC to submit comments on the Natural Resources Plan as quickly as possible so that it's desires be on record. Mr. Chmar reiterated the need for the CAC to act on this matter as quickly as possible. The CAC agreed to fix a date to meet to review the plan asap.

The May minutes were unanimously approved, with minor corrections.

**The Meeting adjourned at 9:45 PM**