

**Town of Washington Planning Board
Meeting Minutes
July 5, 2022**

The Town of Washington Planning Board met on July 5, 2022 at 7:30 pm to discuss the application of Wendy Wolf and Michael Clark at 590 Verbank Road for a Wetland Permit regarding an addition to the home. A Public Hearing for a 3-lot subdivision at 979 Shunpike (Bontecou 3), was also on the agenda.

Planning Board members attending in person were Richard Philipps, Eric Alexander, Susan Meaney, James Cornell and Nicole Drury. Member Andrew Spence attended via Zoom. Chairman Edvard Jorgensen was not able to attend. Member Nicole Dury chaired the meeting in his place.

Also attending the meeting in person were Town attorney, Jeffrey Battistoni, Town consultant from AKRF, Aaron Werner, and CAC members Howard Schuman and Margaret Schneible.

The meeting began at 7:32pm with the Pledge of Allegiance.

Nicole Drury asked for a motion to be appointed as Chair for the July 5, 2022 meeting only. Eric Alexander made the motion, seconded by James Cornell. The vote is as follows:

Edvard Jorgensen	__absent__
Eric Alexander	___AYE___
Andrew Spence	___AYE___
Richard Philipps	___AYE___
Susan Meaney	___AYE___
Nicole Drury	___AYE___
James Cornell	___AYE___

Acting Chair Nicole Drury asked for a motion to approve the June 7, 2022 meeting minutes. Richard Philipps asked that the minutes include that Brian Kiernan himself stated that he was the owner of the property at 3699 State Route 44 in Mabbettsville.

Susan Meaney made the motion to approve the minutes with the addition stated by Member Philipps to be included. Richard Philipps seconded the motion. The vote is as follows:

Edvard Jorgensen	__absent__
Eric Alexander	___AYE___
Andrew Spence	___AYE___
Richard Philipps	___AYE___
Susan Meaney	___AYE___
Nicole Drury	___AYE___
James Cornell	___AYE___

Acting Chair Drury announced that the Brian Kiernan Public Hearing for a Special Permit for professional offices had been cancelled due to violations on the property cited by the Zoning Administrator, James Finley.

Acting Chair Drury asked for a motion to open a Public Hearing for the Bontecou 3 Subdivision at 979 Shunpike. Member Philipps made the motion, seconded by Member Meaney. The vote is as follows:

Edvard Jorgensen	__absent__
Eric Alexander	___AYE___
Andrew Spence	___AYE___
Richard Philipps	___AYE___

Susan Meaney ___AYE___

Nicole Drury ___AYE___

James Cornell ___AYE___

Acting Chair Drury asked if there were any questions or comments from the Board or the public in regard to the Bontecou 3 Subdivision. A neighbor of the property, Fernanda Kellogg, attending in person, asked why Mrs. Bontecou was choosing to retain 47 acres of the property being subdivided. Mr. Houston, representing owner Gayle Bontecou at the Public Hearing, responded that there were no specific plans for the property. She is donating approximately 1300 acres to the Dutchess Land Conservancy. Mrs. Bontecou would like to hold onto those 47 acres.

Member Spence asked Mr. Houston what Mrs. Bontecou could do with that land. He pointed out that there is enough acreage to subdivide the 47 acres. Mr. Houston did not want to comment, since it would only be speculation and, at this point in time, there are no plans to sell or develop the land.

Rebecca Thornton, the President of the DLC asked to speak from Zoom. She wanted to confirm that the DLC is in discussion with Gayle Bontecou about donating 1300 acres to hold for conservation and preservation.

There were no other comments or questions from the CAC, the Planning Board or the public. Acting Chair Drury asked for a motion to close the Public Hearing. Member Alexander made the motion, seconded by Member Meaney. The vote is as follows:

Edvard Jorgensen ___absent___

Eric Alexander ___AYE___

Andrew Spence ___AYE___

Richard Philipps ___AYE___

Susan Meaney ___AYE___

Nicole Drury ___AYE___

James Cornell ___AYE___

Acting Chair Drury asked for a motion to approve the Bontecou 3 Negative Declaration under SEQR. Member Alexander made the motion, seconded by Member Cornell. The vote is as follows:

Edvard Jorgensen ___absent___

Eric Alexander ___AYE___

Andrew Spence ___AYE___

Richard Philipps ___AYE___

Susan Meaney ___AYE___

Nicole Drury ___AYE___

James Cornell ___AYE___

Acting Chair Drury asked for a motion to approve the Bontecou 3 Resolution. Member Philipps made the motion, seconded by Member Meaney. The vote is as follows:

Edvard Jorgensen ___absent___

Eric Alexander ___AYE___

Andrew Spence ___AYE___

Richard Philipps ___AYE___

Susan Meaney ___AYE___

Nicole Drury ___AYE___

James Cornell ___AYE___

Consultant, Aaron Werner added that he filled out Parts II and III of the EAF. In Part II, it states that there is no impact. Chair Edvard Jorgensen is required to sign Part III. The Board of Health does not need to approve this because it is not the Final Subdivision Approval.

Acting Chair Drury announced the next item on the agenda: the Palinkas/Hathaway Lot Line Change at 3906 Route 44 and 889 Tower Hill Road. Brian Houston represented Jason Palinkas in this matter. This application was previously submitted in October 2021, but did not come before the Board due to code violations on the Palinkas property cited by Zoning Administrator James Finley. Mr. Battistoni explained that although a different attorney at Van de Water and Van de Water had handled the case, and he did not know what specific violations were cited, he thought the violations related to the possibility that Mr. Palinkas was running a logging business on his property. There was some discussion at the time about the fact that Mr. Palinkas' property was in the Agricultural District and whether or not his business fit into the agriculture category.

Mr. Houston explained that Jason Palinkas and Nancy Hathaway wish to convey 2.73 acres from the Hathaway parcel to the Palinkas parcel, and .32 acre of the Palinkas parcel to the Hathaway parcel. This results in the Hathaway parcel going from 12.24 acres to 109.83 acres and the Palinkas parcel going from 12.57 acres to 14.98 acres. This Lot Line Change would "clean up" the field owned by Nancy Hathaway and make it easier for haying.

Since this was a simple lot line change a Public Hearing was not necessary. Acting Chair Drury asked for a motion to approve the application as a Type II action. The motion was made by Member Meaney, seconded by Member Alexander. The vote is as follows:

Edvard Jorgensen __absent__

Eric Alexander ___AYE___
Andrew Spence ___AYE___
Richard Philipps ___AYE___
Susan Meaney ___AYE___
Nicole Drury ___AYE___
James Cornell ___AYE___

Acting Chair Drury then asked for a motion to approve the lot line change with the following conditions: a Bulk Regulation Table be added to the survey, permission to file is granted by the County, and there are no existing violations regarding Mr. Palinkas' property. Member Cornell made the motion, seconded by Member Alexander. The vote is as follows:

Edvard Jorgensen ___absent___
Eric Alexander ___AYE___
Andrew Spence ___nonvote___
Richard Philipps ___AYE___
Susan Meaney ___AYE___
Nicole Drury ___AYE___
James Cornell ___AYE___

Member Spence's vote could not be heard due to interference from an outside source on Zoom.

Acting Chair Drury announced the Wendy Wolfe/Michael Clark Wetland Permit application.

Connor Bingham of Historical Concepts: Architecture and Planning, and Andrew Didio of Taconic Engineering represented the applicants at the meeting. Part of the addition would encroach on the Wetlands as does most of the existing 3-bedroom house. The home was built before the Wetlands Law. Mr. Bingham and Mr. Didio explained that they are attempting to give their clients the most space with as little disruption to the land as possible. After the addition, the house would go from 3,707 square feet to 6,700 square feet, 5,100 square feet of that would be living space. A cottage and 3-car garage will be demolished.

Acting Chair Drury asked if the Planning Board is even able to approve construction within a buffer or does it need to go to the CAC or the Zoning Board of Appeals for a variance? CAC member Howard Schuman stated that he suspects the Planning Board can approve the application, but that the applicants have to prove that there is nowhere else to put the addition and also meet other criteria.

Acting Chair Drury stated that she would like to formally refer this to the CAC for review since most of the house is in the buffer. Mr. Schuman stated that attorney Jeffrey Battistoni and Steve Marino are the experts. The CAC are not experts and only play an advisory role to the Town. Aaron Werner, consultant, is also available to help with the review. Members went on to discuss former applications that involved construction within the buffer, that were approved because they either did not pose a large risk to the Wetlands or there was no other way to accomplish their project.

Acting Chair Drury also stated that she believed this application requires a referral to the Dutchess County Department of Planning and Development. Aaron Werner confirmed that it would need the County referral. Mr. Werner also suggested to wait to make the County referral because there are other issues to address, including issues stated in Steve Marino's letter. The buffer needs to be added to the survey as well as the Sediment Erosion Control Plan, as per Mr. Marino. County deadlines and procedures were discussed, such as the County requiring the referral to be filed within 10 days of the Planning Board meeting. Aaron Werner noted that for 239-m referrals, there is no deadline for the County to receive it, but once the referral is made by the Planning Board Secretary, the County Planning Department has 30 days to provide a response.

Representatives for the applicant, Connor Bingham and Andrew Didio offered to submit the demolition plan with the construction plan. The new construction will be one story and the part of the home being renovated is 2.5 stories. Acting Chair Drury felt that it would be a good idea to have that information. There will not be a Public Hearing at the next meeting because more information needs to be presented and discussed, including Steve Marino's official comments.

Aaron Werner confirmed with Mr. Bingham and Mr. Didio that there is no other possible location for the addition due to a rock outcropping and other constraints. They agreed that any other location would also result in implementing the area of the buffer. Mr. Werner stated that he would defer to Mr. Marino in this case since the Wetlands are so prevalent in the project.

Acting Chair Drury went on to read the letter Mr. Marino sent to the Planning Board, which is posted on the website. The letter noted that the site plan is required to show the Wetland buffer. That will need to be added. Mr. Marino also pointed out that the landscaping can be done in such a way that it is not as disruptive to the water in the area. Mr. Bingham stated that they have a landscape plan already drawn up which they showed the Board. Mr. Bingham pointed out the different features of the landscaping, including the fact that there is a lot of land that is presently mowed but will be landscaped appropriately in the future. The Board went on to discuss the size of the pond on the property, which is a little over an acre. Because of size of the pond, it meets the requirement of the 100-foot buffer.

Mr. Marino's letter also stated that collecting any run-off and depositing directly into the pond "is not an acceptable practice" because the pond then drains into a larger water system. He goes on to suggest acceptable ways of depositing the run-off such as dry wells, vegetative swales, rain gardens, etc. Acting Chair Drury stated that the Board would like to see a different plan for dealing with the run-off. Mr. Didio stated that they will have the landscape architect make another plan for the Planning Board.

Mr. Battistoni stated that since the property is being mowed right up to the pond, the buffer is already being disturbed. The landscaping plan looks like it will enhance the buffer and improve the situation.

Howard Schuman from the CAC commented that there are some things missing from the plans such as the buffer, bodies of water, and hybrid soils. He would like to see more information submitted. There was a further discussion regarding the classification of soils which Mr. Marino can discuss further. Acting Chair Drury stated that in his letter, Mr. Marino classifies the stream on the property as Class B. Mr. Schuman stated that the CAC needs to see the requested materials before they can advise the Planning Board. Acting Chair Drury stated that Mr. Bingham and Mr. Didio should contact Mr. Marino in order to expedite things.

Mr. Schuman expressed concern over the CAC having enough time to review and comment on the application, since some material is missing and the CAC meets on July 6. A discussion about the time limit ensued and it was decided that the CAC would not have to complete comments before the August 2 Planning Board meeting, although it could be done if possible. It was stated that maybe the scheduling should be examined in order to serve the community better. Mr. Didio asked that if they were able to submit requested materials within 2 weeks of July 5, would the CAC then have enough time to discuss their findings and put them in writing? It was agreed that it would probably happen this way.

“Acting Chair Drury read a comment aloud from Aaron Werner’s memo: applicability of site plan review and approval single family dwellings and garages permitted by right in the RL-5 district”, and he goes on “and it is required for all changes and use, except for change for single family or two family growing, which will be occupied, as such, so the site plan review and approvals therefore not applicable to this application.”

Mr. Werner stated that the applicants are not asking for a site plan approval, they are asking for a Wetlands Permit. Acting Chair Drury added that they just want to make it clear to the applicants that the Board wants to do their job carefully.

The erosion of sediment plan was slightly confusing but Mr. Marino is the person to analyze that. Referral to the Dutchess County Department of Planning and Development will be made in the future.

Mr. Werner stated that an Agricultural Date Statement is not needed for this application. This could qualify as a Type II action under SEQ. The conditions in the Resolution can be very specific.

A Public Hearing cannot be scheduled until all materials that were requested have been submitted.

Acting Chair Drury announced that LaBella would like to submit an application regarding the Johnson and Johnson subdivision and are asking for an opinion. The Planning Board already gave them the opinion that the moratorium is in place for any subdivision that creates more than 3 lots. She asked Mr. Battistoni if Johnson and Johnson should be put on the agenda or should the Board wait until the moratorium ends. Mr. Battistoni replied that he needs to go over the materials in order to advise the Board.

Member Andrew Spence stated that a hypothetical suggestion of a staggered application was brought up to the Board by LaBella in order to stay within the limitations of the moratorium. He asked Mr. Battistoni if there was a time constraint which would result in the application not considered to be staggered. Mr. Battistoni replied that some towns do have a time constraint for such applications. They may say there needs to be 2 years between segments. Mr. Battistoni is not sure whether or not the Town of Washington has such codes, but he will look into it.

Acting Chair Drury stated that the intention of the moratorium, to protect the community, is clear in the moratorium. If someone clearly states that they want to get around the moratorium, it seems that it goes against everything the Town Board has laid out. Member Spence agreed. If there is not a time constraint given, and the applicant wants to come back each month with another subdivision plan, the Board does not agree.

Acting Chair Drury stated that the applicant can appeal to the Town Board, which can allow them to proceed with the subdivision during the moratorium. Mr. Battistoni agreed that there may be some special circumstances that the Town Board would look at if an appeal is made.

The Millbrook School is building faculty housing, and the Town of Stanford referred it to us so if anyone would like more information about the project, the Board can ask for that.

Member Meaney announced that the checklist for Planning Board applications is ready to be posted on the website which she will be working on with the Planning Board secretary. She noted that she added the language that was suggested by Member Spence, quoted in the June minutes. Member Meaney stated that it is at the top of the checklist, and she read the paragraph aloud.

Pace, who is assisting the Town with the procedures and website, did not have any changes or additions to the checklist. They suggested the checklist be posted on the website for the public to use, and make changes if any are needed. Acting Chair Drury noted that it is important for the residents to have requirements clearly defined.

There was no other business to discuss. Member Alexander made the motion to close the meeting, seconded by Member Philipps. The vote is as follows:

Edvard Jorgensen	__absent__
Eric Alexander	___AYE___
Andrew Spence	___AYE___
Richard Philipps	___AYE___
Susan Meaney	___AYE___
Nicole Drury	___AYE___
James Cornell	___AYE___

The meeting closed at 9:04pm.

