

Town of Washington Planning Board

DECISION GRANTING WETLANDS PERMIT

**Erratic Holdings, LLC
c/o Michael Clark and Wendy Wolf
590 Verbank Road**

APPLICATION

ERRATIC HOLDINGS, LLC (hereinafter “Applicant”), c/o Michael Clark and Wendy Wolf, sought approval of a wetlands and watercourse permit for construction activities proposed at 590 Verbank Road, Millbrook, New York, tax parcel no. 135889-6664-00-437473-0000. A 7.2-acre residential lot located in the RL-5 zoning district (the “Project”). Said property contains a pond that is connected to an on- and off-site perennial stream that has connections to other off-site federally mapped wetlands.

Applicant proposed to renovate the primary single-family residence on the property, which was initially constructed in the mid-1970s. Said renovation would occur within 100 feet of the edge of the on-site pond, i.e. the controlled area or buffer. Consequently, Applicant was required to obtain a wetlands permit pursuant Section 396 of the Town of Washington Town Code, entitled “Wetlands and Watercourse Law,” which was adopted in 2011.

PUBLIC HEARING

A duly-noticed public hearing on the above-referenced application was opened on September 6, 2022, at which time all those who wished to speak were heard.

LAW

Section 396 of the Town Code, entitled “Wetlands and Watercourses Law of the Town of Washington,” mandates that all wetlands, which includes water bodies such as the ponds, have a 100 foot setback requirement to prevent development within the “controlled area” of the wetland. Any deviation from the 100 foot setback requires a wetlands permit issued by the Planning Board.

MATERIALS CONSIDERED

The Planning Board received and considered the following materials in conducting its review:

1. Application to the Town of Washington Planning Board dated June 20, 2022, including the following attachments:
 - i. Owner’s Endorsement
 - ii. Short Environmental Assessment Form
 - iii. Property Deed (Recorded December 29, 2021)
 - iv. Survey and Topographical Map (June 12, 2021)

- v. Geotechnical Report (November 16, 2021)
2. AKRF Memorandum dated June 30, 2022;
3. AKRF Summary Sheets (July-September 2022)
4. Report from the Conservation Advisory Commission dated July 25, 2022;
5. Second Report from the Conservation Advisory Commission dated August 30, 2022;
6. Dutchess County Department of Planning and Development Report dated September 1, 2022;
7. Correspondence from Steve Marino, PWS, the Town of Washington's Wetland Consultant, dated September 2, 2022;
8. All supplemental materials presented by the Applicant during the public hearing on September 6, 2022; and
9. All oral statements made in connection with the application that are contained in the Meeting Minutes and incorporated herein by reference.

SEORA

The application was classified as a Type II Action pursuant to 6 NYCRR 617.5(c)(11) of the State Environmental Quality Review Act. Consequently, no further environmental review was required.

GENERAL MUNICIPAL LAW

The application was referred to the Dutchess County Planning Department ("DCPD") under Section 239-m of the General Municipal Law. According to a response received from DCPD on September 1, 2022, the matter was of local concern.

RECORD OF FINDINGS

This matter having come to be heard before duly convened meetings of the Planning Board, and the facts, matters, and evidence produced by the Applicant, the Town, and interested parties having been duly heard, received, and considered, and due deliberation having been had, the following is the record of findings:

1. The Applicant is the owner of the Property located at 590 Verbank Road, Millbrook, New York. Said property currently has a single-family residence constructed in the mid-1970s that is within 100 feet of a pond.
2. The 7.2-acre Property is located in the RL-5 residential zone.

3. The use of the Property has been solely for residential use since the house was constructed in the mid-1970s. Owners of said Property have maintained the area within the 100 foot buffer of the waterbody for as long as they have owned the parcel.
4. Pursuant to Section 396, subsection IX[A] of the Town Code, “[a]n applicant is entitled to a wetland permit...if the proposed regulated activity will not result in a negative impact to the functioning of a wetland, watercourse, or water body that has been shown to have a beneficial environmental function.” Here, the residence has not had a negative impact on the nearby pond, nor is it anticipated that the proposed construction will cause a negative impact to occur.
5. While the Property is large, there are no available alternatives that would be practical or feasible since Applicant’s home was previously constructed before the adoption of the Town’s Wetlands and Watercourses Law. Requesting that the Applicant move the entire home is neither practical nor financially feasible, but would rather be extraordinarily burdensome.
6. The Applicant’s proposal contained numerous mitigation plans to limit the impact on the pond and neighboring area. Landscaping, planting, and the like will be used to protect and preserve the water body and the vicinity.

DECISION

In employing the factors outlined in Section 396 of the Town Code, the Planning Board hereby determines that the Applicant has demonstrated entitlement to the wetlands permit and grants same subject to the following conditions:

1. Review and approval by the Town’s Wetlands Consultant, Steve Marino, of the full planting plan for the Property prior to Applicant’s submission of an area variance application to the Zoning Board of Appeals; and
2. Annual site visit for three (3) years following Project completion by Steve Marino, Wetlands Consultant for the Town of Washington.

By roll call a motion to adopt the decision was voted on September 6, 2022 as follows:

Chairman Jorgensen	_____AYE_____
Member Alexander	_____AYE_____
Member Cornell	_____Absent_____
Member Drury	_____AYE_____

Member Meaney

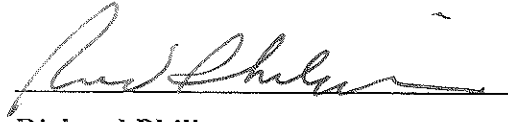
_____ AYE _____

Member Philipps

_____ AYE _____

Member Spence


_____ AYE _____



Richard Philipps
Acting Chairman
Town of Washington Planning Board

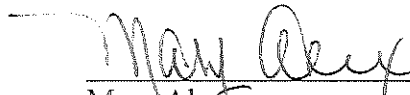
STATE OF NEW YORK)
)ss:
COUNTY OF DUTCHESS)

I, Kristen DiFiore, Secretary to the Planning Board of the Town of Washington, do hereby certify that the foregoing is a true and exact copy of the Decision maintained in the office of the Town of Washington Zoning Board of Appeals, said resulting from a vote having been taken by the Board at a public meeting held on September 6, 2022.



Kristen DiFiore
Secretary, Town of Washington ZBA

I, Mary Alex, Clerk of the Town of Washington, do hereby certify that the foregoing Decision was filed in the Office of the Town Clerk on 10/5/2022



Mary Alex
Clerk, Town of Washington