

RUDOLPH C. PETRUCCELLI, P.E.
Principal

June 26, 2014

Jerome Kerner, AIA – Chairman and
Members of the Lewisboro Planning Board

RE: Rudolph Petrucelli
Oscaleta Road
Sheet 33B, Block 11157, Lot 46

Dear Mr. Kerner and Members of the Board:

This is in response to the Kellard/Sessions memo of June 13, 2014.

Part 1 – EAF Review

- 1.0 Project Description: The proposed land disturbance has been changed to 19,100 s.f.
- C.7 The predominant land uses within ¼ mile of the subject property has been identified as “Residential (Suburban) and Open Space”

Part 2 – EAF Review

Impact on Water

- 4.3 The area of disturbance within the wetland proper and buffer has been revised to reflect the latest site plan.

Growth and Character

- 19.7 The proposed action has been revised to “Potentially Large Impact.”

Part 3 – EAF Review

Detailed evaluation of each “Potentially Large Impact” identified in Part 2 of the EAF is attached to the revised EAF dated July 25, 2014 and attached hereon.

Plan Comments

- 1.1 While we note the comment from KS that they had previously recommended the reduction in the bedroom count of the house, we return to our contention that reducing the bedroom count would significantly diminish the financial value of the house while not significantly decreasing the proposed impacts. Regardless of the comments put forth by the neighbors, the amount of effluent from a two, three or four bedroom house at this location is not enough to take Lake Waccabuc beyond the tipping point. The difference between 400 and 600 gallons per day of effluent flow (a conservative number by Health Department standards) is insignificant when there are acres of land between the system and the lake. The distance alone between the proposed residence and the lake, with a well-developed wetland in between, mitigates the possible concerns to water quality of the lake. The location of the septic system is more than ten

feet higher in elevation than the lake elevation, so there is plenty of vertical drop through soil prior to reaching the lake.

As we have attempted to point out in previous submissions, the primary reason that wetlands are protected is so that the vital water quality functions that wetlands provide are preserved. A small, properly designed and installed septic system outside of the wetland does not constitute a potential hazard to the wetland, which is why the DEC has already approved the plan. It is stated here again for the record that the small, accidental wetland created on the site by the importation of fill for a construction road in the 1970's is not a wetland that provides high benefits or functions of any sort that cannot be replaced by stormwater management practices or expansion/enhancement of the remaining part of the wetland. The largest threat to proper function of the septic system is the standing water in the existing pocket wetland. If the berm were to be breached, as we proposed in our concept plan for offsite mitigation, the nuisance of this standing water would be eliminated while still allowing for the creation of a higher functioning wetland community and corridor. The bottom line is that the small size of the existing parcel and combination of conditions that led to the ponding of water on the site are the primary issue, not the size of the septic system

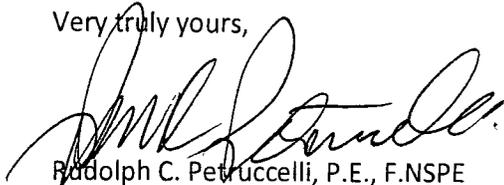
- 1.2 As noted, we have reached out to the Town Board and the Three Lakes Council regarding potential siting of off-site mitigation. By far, the project with the best potential for success is the concept put forth for the Three Lakes Parcel directly to the south of the subject site. However, as stated in our previous correspondence, the Three Lakes Council has established conditions that are impossible to meet on a small site with the present restrictions. Our proposal, which is to breach the berm to the south of the site, allowing for the creation of a wetland corridor with native plantings, would reconnect the historic drainage patterns of the neighborhood and establish a link to the DEC wetland. Nonnative vegetation would be eliminated, trash and debris that were originally used to establish this portion of the berm would be removed, and a mosquito nuisance would be gone. Flow through the area from the north would still be maintained, and the proposed stormwater system would function to provide any storage and treatment that the current ponded area performs. While we will continue to pursue other options if they become available, and are interested in hearing any ideas the Board may have, we remain convinced that this option is the best for the wetland and for the site.
- 1.3 We have not found any residential property in Westchester County that has an active microbial inoculation system in use. We would appreciate knowing where Kellard/Sessions received this information, the owners of the properties and if the Westchester County Health Department has approved any of them.
- 1.4 If the split rail fence is moved to proposed contour elevation 484, a gate would have to be incorporated in it to allow the owner access to the septic fields for grass cutting and maintenance. This gate would give the owners, guests and neighbors easy access to the wetland buffer protection line DEC has requested and would void the boundary they require.
2. The on-site wetland mitigation plan has been revised as suggested.
3. The wetlands flag locations #7 and #8 have been revised to conform to the locations delineated in the July 2012 site plan. The septic tank and house sewer line have been relocated accordingly. Also, the disturbance areas have been re-calculated and the analysis chart changed.

4. We are presently pursuing approvals from both WCHD and NYCDEP; however, NYCDEP has stated that they will review the plans upon Town approval of the Subdivision Plat.
5. Kellard/Sessions representative witnessed the deep tests on July 26, 2010 and should have witnessed the percolation tests at that time. To require new percolation tests at this time when they should have been witnessed at the time they were performed is asking too much. If at the time the house is being constructed and a backhoe is on the site, we will gladly accommodate your consultant.
6. Attached is a copy of the FEMA FIRM map to replace the one in Appendix F of the SWPPP.
- 7.1 Based on our soils investigation of the site, about 10% of the site is Group D (Palms muck), being the DEC wetland at the western side. The remainder is Group B; however, the Town wetland as flagged now acts as Group D due to the berm holding back the drainage, and the presence of a restrictive layer in the Paxton soils at approximately two feet depth. Therefore, I would say it like this:

10% Group D
20% Group B/D (based on current drainage conditions)
70% Group B
- 7.2 thru 7.4 Have been revised in the old N.O.I. We are in the process of applying for the new N.O.I. from NYSDEC and once received and filled out we will send the Board a copy.
8. A Town Stormwater Permit Application will be submitted to the Planning Board upon approval of the Subdivision Plat and Wetlands Permit.
9. At the time the Town required a plat for the two lots, I was told by the Building Inspector and Town Planner that it was only administrative and that the plat would only have the metes and bounds and the areas of each lot to meet the 1972 Subdivision Regulations and nothing more. Therefore, the plat will remain as drafted with the exception of the Planning Board Secretary's name, which was changed.

This concludes our response to the memo.

Very truly yours,



Rudolph C. Petruccelli, P.E., F.NSPE

Steven Marino, PWS
Tim Miller Associates, Inc.

cc. Kellard/Sessions
M. Sirignano, Esq.
S. Marino, T. Miller Assoc.

Part 3 – EVALUATION OF THE IMPORTANCE OF IMPACTS

4. *“Will proposed action affect any non-protected existing or new body of water.”*

The proposed residence will affect an existing small pocket wetland (6,783 sf on site, approximately 8,000 sf or 0.18 ac total). Of this total, approximately 2,936 sf (0.07 ac) will be filled for the construction of a single family residence. The wetland is not regulated by either the NYSDEC or the Army Corps of Engineers, but is regulated by the Town of Lewisboro. A NYSDEC/federal wetland does exist at the western edge of the property site; this wetland will not be disturbed.

Disturbance of this wetland is unavoidable if any development of this parcel is to take place. The applicant has provided a detailed wetland functional assessment of the site wetland, which concluded that the wetland was created as a result of filling activities (creation of a berm) at the downstream extent of the wetland, and it functions primarily for stormwater detention and water quality improvement. It is limited in these functions due to its small size, and both these functions can be replicated by the use of stormwater management structures which are part of the overall proposal. Additional mitigation measures include re-vegetation of portions of the site with native seed and plantings, expansion of the remaining wetland, and provision of a conservation easement for the DEC wetland and adjacent area.

19. *“Will Proposed Action affect the character of the existing community”*

The Town of Lewisboro adopted Chapter 217, Wetlands and Watercourses, in 2004, as an update to prior versions of the Town Code. This law was adopted by “the Town of Lewisboro to protect its citizens, including generations yet unborn, by preventing the despoliation and destruction of wetlands and watercourses, while taking into account varying ecological, economic, recreational, and aesthetic values. Activities that may damage wetlands and watercourses should be located on upland areas, separated by densely vegetated upland buffer areas of sufficient width” (Ch. 217-1(a)(6)). The law establishes a procedure for reviewing an application from a property owner and considering numerous factors in reaching a decision, based entirely on the unique circumstances of the application.

These circumstances could include site location, scale and use of the project, function and values of the affected wetland and buffer areas, and potential impacts to these functions and benefits as they relate to water quality, wildlife habitat, open space and recreation and numerous other factors. These factors can also include the right of the property owner to make reasonable use of a property and for the project to have some reasonable economic benefit for the property owner. Therefore, for each individual application reviewed by the Planning Board, these factors must be considered and weighed before the issuance or denial of a permit. Since each individual application is unique, and all wetlands and particular site conditions and qualities are unique, there is little argument for the setting of a precedent in the evaluation of an application when any of these unique aspects can be weighed to either approve or deny any specific application.