

TOWN OF WASHINGTON
TOWN BOARD
September 29, 2010
Public Hearing

The Town Board of the Town of Washington held a Public Hearing on Wednesday, September 29, 2010, at the Millbrook Fire House, Front Street, Millbrook, NY. The meeting was called to order at 7:30 PM by Supervisor Florence Prisco with the following present: Councilmen Stephen Turletes, Michael Murphy, Robert Audia and William Murphy, Town Clerk Mary Alex, Associate Attorney Rebecca Valk and Consultant Steve Marino.

Also present were: Howard Schuman, Joan Trombini, Frank Genova, Steve VanTassell, Rob Dyson, Jeff Kane, Richard Cantor, Tom Barger, Nick Galente, Mary Rose and Jeff Giardina, William Schlesinger, John Asklidson, Bob Campbell, Alex Kollmar, Dirk-Jan Rosse, Dirk Rosse, Erichsen Kollmar, Tony Sloan, Maris VanAlan and David Greenwood.

Supervisor Prisco opened the meeting with the Pledge of Allegiance.

Councilman M. Murphy said that the Town has made some changes to the document based upon comments made at the last Public hearing and comments received from Dutchess County Department of Planning and Development. Councilman M. Murphy said that he has made a site visit to the Van Tassell property and spoken with Mr. Van Tassell about his concerns. Councilman Murphy said that because the Van Tassell property is in an agricultural district, there is nothing in the document that pertains to his property unless he goes out to sell the property or change the direction of the use of the property. Councilman Murphy said at the previous Public Hearing the town was questioned as to why the document is so lengthy. The Committee decided that it was important to provide definitions, and to make sure that all applicants started from the same point with as much information as possible. Some parts of the document are sections that are required by law and that overall, there are about five pages that are the actual law.

Ms. Valk said that there will be a change to the current version. She indicated that on page 3 and page 7 there will be corrections to indicate that

there will be concurrent jurisdiction with the Army Corps of Engineers and the NYS DEC.

Mr. Galente asked what happens to an application that is currently moving through Planning Board process. Councilman Murphy said that if an application has been made and is moving forward, it will be grandfathered from the new regulations. Mr. Giardina asked wouldn't it obviate the need for a subsequent approval if there is a wetland on it? Councilman M. Murphy said that future permits are not grandfathered.

Councilman Murphy said that based on comments made at the previous public hearing the following items were changed from the previous law: The updated version contains changes to definitions, which were suggested by Dutchess County Planning and by Mr. Cantor, especially in those areas that were said to be overly broad. Structures that have fewer than 100 square feet will be exempt from this law. On the application itself, the initial map that is to be submitted with the application, need not be done by wetland consultant. The map needs to be of some scale, and may be a copy of the towns wetland map, and the overhead scale and contour map can be combined into one map. The Planning Board will review the initial application and will make brief findings as to whether additional information is required. The Planning Board Chair requested that this addition be made to the legislation. The Planning Board will be required to show the applicant why additional information is necessary.

Mr. Marino responded to the comments made at previous public hearings about the cost of a wetlands application to the applicant. He said there is no doubt that there will be additional costs to an applicant for a wetland permit and the town was aware that there would be costs involved to the applicant. He said with the atmosphere we are in now, with many communities protecting the natural resources, most architects, engineers, surveyors and planners know about this type of legislation and are familiar with the process. Generally, a professional, on behalf of the applicant has prepared the plans and applications for a building permit or planning board application. Mr. Dyson reiterated that in most instances this law would require that the applicant would find it necessary to hire a specialist to complete the application. Mr. Marino said in most situations, with the assistance of a surveyor, planner or engineer a person could easily fill out the application in a couple of hours of work. There was never a

question by the town that this would add another layer to a project and there will be additional costs.

Mr. Campbell said that each additional level of legislation makes it harder for people to go through the process. He said he has seen this type of legislation used to delay the application process. Councilman M. Murphy said that on the flip side, he has seen applicants come in with a team of professionals and a thoroughly prepared application, and the process has moved smoothly.

Mr. Barger asked why does the map that is to be submitted with the application not have to be a map prepared by a registered architect, registered land surveyor or wetlands expert. Is there any reason why you are not including those professionals? Mr. Marino said this is unique to the town. Mr. Barger asked what is the value of a map if it not prepared by a professional. Councilman M. Murphy said that initially that requirement was in ordinance. The public reaction was that there will be a lot of initial costs up front, and if they decide not to go through with an application it is money not well spent. If the Planning Boards finding is that more detailed information is required than that will stimulate the need for those professionals. Mr. Barger said as a surveyor, my client wants to know up front what it will cost them. My client doesn't want me to come back to them and say it's going to cost you \$50,000.00 more. Councilman Turletes explained that the thing we heard, time after time, is that this is too expensive. He said the Planning Board will ask for the information if they think they need it. Mr. Barger said he doesn't like not being able to give my client the full cost. A client never likes the professional to come back to them multiple times to hear now you need to have additional work done and it will cost this much more. Councilman M. Murphy said that with the original map, the Zoning Inspector and the Planning Board members will look at it and determine if they need more information. Ms. Valk said that as the professional, you would normally advocate for your client on the front end, that the Planning Board has everything that they need to move the application forward. Ms. Valk said there is some flexibility as to what is needed. It may be found that the entire parcel need not be surveyed or delineated.

Councilman Murphy said that since there has been so much discussion in the past on the cost of an application, he asked Mr. Marino what the costs to an applicant might be. Mr. Marino said that there are different factors that will

determine the potential costs. The costs will be based on the size of parcel, the size of activity and the functionality of the wetland. He said he recently gave a proposal to someone for the delineation of wetlands on a parcel being several hundred acres in size, and the cost was \$8,000.00. A two acre parcel with a stream in the back may cost \$400 - \$500.00 for the delineation. On large projects, such as a subdivision, a lot line change or site plan review, a wetland delineation may already be required because of SEQR. The valuation and functionality of a wetland might be more detailed and require deeper analysis with more expenses. Mr. Marino suggested that a professional might warn his client that there may be some additional expenses. He added that you might want to show them the page in the ordinance listing the possible add-ons and spell out this is what it might cost.

In the actual Wetlands Application, Item 1 – 10 are required, and # 11 and beyond are the items that may be required after the initial review by the Zoning Administrator or Planning Board. Mr. Barger asked what qualifies someone to be a wetlands specialist. Mr. Marino replied that it is not a licensed professional like a surveyor or an engineer. The Association of Wetland Biologists has a Wetlands Certification Standard of Wetland Scientists, which is a generally accepted standard in the industry. While there is no term for certification, a wetland biologist still has the ability to delineate a wetland. Mr. Barger said he had a concern with allowing lay people to make decisions on massive documents. Councilman M. Murphy said that the town currently has a professional available for review of Planning Board applications and the town will hire a wetlands firm paid as needed by the applicant through the escrow.

Mr. Genova stated he is a charter member of CAC. He said we have no specialist on CAC to deal with this kind of ordinance. I object to the term Planning Board in consultation with the CAC. I will not be part of this, I will not end up in the courts, don't ask me to come out and take this man's land. I will not be part of a taking. I will not be part of the ordinance that the CAC works in consultation with the PB. I will not be part of this.

Ms. Valk said another change is one on Page 16 dealing with Standards. It was suggested that there should be a standard and the existing text should indicate the factors of what the Planning Board is guided by to determine if the

standard has been met. The Town cannot issue a permit unless these three things are satisfied.

Mr. Marino said on Page 18 it is at the discretion of the Zoning Administrator to make a determination of whether an activity should go to the Planning Board. Mr. Marino said the Town recommends that applicant schedule a pre-application meeting prior to making an application. By discussing the project upfront, it might be determined that there are creative redesigns of a project to allow discretion to move forward without an application. Examples given were relocation of construction or a smaller addition.

Addressing the town's buffer zone around wetland and watercourses, Mr. Marino said the Army Corp of Engineers does not have a buffer zone, while the DEC has a buffer area. In the interest of the town in protecting these waters they felt the buffer was necessary. If DEC issues a permit, at the Planning Board discretion, the town can accept the DEC permit. The Planning Board may also request additional information on top of the DEC approval. Mr. Loibl asked if the DEC says no permit is necessary, do you still need a permit from the town. He was advised that you will need to go to the town to with the information from the DEC and discuss if you will be required to submit additional material to the Town. You will still need to begin the application process in the town as well. More than likely you will not need a town permit, but don't assume you will not need a permit. You have to talk to someone. Mr. Loibl said he would prefer that the Town legislation says if you have a DEC permit you are exempt from the town process. Mr. Marino added that the Army Corp regulates with a 45 day clock. The concurrent application ensures the towns interest because if the Army Corp doesn't respond to your application within 45 days than you may proceed with your project.

Mr. Campbell asked if he was building a small deck, can he say go ahead with a building permit or does one pay a fee and submit a wetlands application. Ms. Valk said that anything bigger than 10 x 10 structures would need a wetland permit and the application would be made when they do the building permit application. The Planning Board could be asked to make a determination.

Mr. Schuman said that the he reads this is the CAC is not involved. The application will be referred to the Planning Board. The Planning Board will, as

Franks says, request to consult with the CAC. Councilman Murphy said that as is done now, the CAC representative will be invited to the table and may be asked if want to take a look at this with the Planning Board. They are an advisory committee, and may have the expertise to go out and assist. Mr. Marino said that early on in the process, the question was asked when to bring the CAC into the equation. One of the complaints made early on was a building permit applicant could have a drawn out process that might not be necessary. The Planning Board will take the recommendation made by the CAC, if they have any comments or recommendations. Mr. Genova said sometimes the CAC will go on a site visit and sometimes they don't. We advise, the Planning Board makes determinations.

Councilman Murphy said that the Planning Board is not expert in this area, which is why the CAC may be asked to consult. Ms. Valk said the term consultation is being used differently. If the CAC does not offer comments, it doesn't change their role. The Planning Board may decide not to go to CAC if they feel a consultation is not needed. Mr. Schuman asked if the CAC has the right to offer an opinion to the Planning Board without the request of Planning Board. When an application is submitted a copy will go to the CAC. The CAC will have the opportunity to make comments on it.

Mr. Barger asked Ms. Valk and Mr. Marino what their interests are in this project. They both advised that they are consultants to the Town. He asked has the Town Board made their decision on this legislation. Councilman M. Murphy said no. The committee has put together the document. Ms. Valk said the Town Board has not publicly expressed their opinions and they are obligated to take in all public comments. They need to listen before making up their mind. Mr. Barger asked how will the Board going to decide how they will make up their mind. Do they use straw polls? Supervisor Prisco said that she has done a lot of reading, thinking, discussions, and in her opinion the most important part is the public hearings. You hear a lot on the street, get emails, this is your ordinance and we listen to the public. Councilman W. Murphy said that he listens to the peoples input. Councilman Murphy said that once this issue was brought before the Town Board, they gave him the challenge to gather a committee and put together a document. When the legislation was complete the Town Board scheduled a public hearing, from the Public Hearing the committee might make changes and schedule additional public hearings. The full board has had no interaction in process other than their participation at the Public Hearings. After

they close the Public hearing the Board might vote on the legislation or they may choose to take no action.

Somebody commented that the definitions on page 7 might lead people to believe the definitions are from DEC and EPA and they are not.

Mr. Askildsen said the town should strive to make the law as clear as possible. As a layperson one cannot interpret all of the laws. If there are questions by an applicant, they do not need to be represented by a professional. They simply need to pick up the phone and talk to the wetlands administrator of the town and ask what does this mean. The wetlands administrator is the guy to help with the application and the Planning Board is the review agency. The wetlands consultant will guide the applicant. The laws are not made to be completely digested by lay people.

Councilman Murphy said that the workshop meeting or pre-application meeting can be a very important part of the process. He has seen more success come out of that meeting. A lot of questions, communication and things are worked out. He has seen the flexibility of the workshop. In many instances, sitting with fellow residents has been very collegial, sometimes adversarial, but there is room for clarification with dialogue.

Alex Kollmar said that his house is built 15 feet from a ½ acre pond. He asked if he wanted to paint his house would he need permission or to submit an application. Ms. Valk said that not all ponds are wetlands. If you wished to do something on your property you would speak with the zoning administrator. The law allows for ordinary maintenance and repair, as indicated on page 10, paragraph G. She added that if you are not expanding or increasing footprint, it would be a replacement, which would not need a wetlands application. Someone pointed out that the document says using pressure treated wood requires wetlands application.

Mr. Cantor said most people in both their personal and professional lives, look at situations as a moderate or conservative leading to the conclusion that laws shouldn't be adopted unless there is a good reason for the law. Most of the situations in the Town of Washington will fit into 2 categories. There will be those making an application to the Planning Board or the Zoning Board of Appeals, and

95% of those cases would fall under the SEQR process. The other category would be a 1 family house that doesn't come before PB or ZBA, but requires a building permit. He said that there is nothing that Mr. Marino described that isn't done now, that can't be done now or shouldn't be done now when an applicant comes before Planning Board or ZBA within the SEQR process. There is no reason to adopt a law that already covers that information. It's all there.

Mr. Cantor asked do you have a history or reason to believe that you have had a significant wetland abuse or threath to cause you to adopt a law. If nothing comes to your attention that there is abuse of wetlands or regulated buffers, there is no reason to adopt this law. All of us struggle with ever increasing amounts of regulation and cost in how we do our business. The Town shouldn't adopt the law if there is no reason to do so. The town does not need this law when you can use the existing process that you have in place. If someone is building in the middle of wetland that it is no longer a type 2 action and they come within SEQR. You should think if there is a bona fide governmental reason in the town to adopt the wetlands law.

Mr. Cantor said that he realizes that the town has been pushed and pulled on this matter. He has an understanding and sympathy for the Board to try and listen to all of the public comments. In a place like the Town of Washington it is an illusion to think that a homemade map or a zoning administrator's look is going to give a reliable basis to figure out if something should be steered through the process. It requires a knowledgeable person to know when a combination of soil and vegetation lead to conclusion that is a wetland or not.

Mr. Cantor asked who pays for wetland administrator. The Town has indicated that the applicant will establish an escrow deposit. If you're looking for the Wetland Administrator to participate up front before an application is filed, will you charge a fee high enough to cover the costs? This is a pragmatic issue as to how it is done. Rebecca said earlier there are provisions that say you don't have to look at entire parcel. That overlooks the fact that there are hydro geologic connections. How will the Planning Board know if the thirty acres over there is or isn't connected to the obvious ½ acre wetland piece over here? However well intentioned the town is giving an amateur the shot to look at it simply won't work.

Mr. Cantor said that in your meeting with Mr. Van Tassell, the points he raised regarding assessment are important ones. This a direct question asked in the SEQR process. The financial impacts on how the assessments and the land value relates to the cost of development is a direct SEQR consideration as to whether or not to adopt the law.

There are distinctions that get lumped together in your law. Examples are those activities that do and don't go to Planning Board, and big wetlands and small wetlands. Generally you follow language of conservation environmental law. That language that is speaking to 12 acre wetland may have a different application to a ¼ acre wetland. You have lumped them together without distinction. The distinction of same size wetlands with different functions are lumped together.

Mr. Cantor requested that the town keep the Public Hearing open. He also requested that the town establish 10 days or two weeks to enter written comments.

Mr. Kane, said he is a resident of Cold Spring, and here at the request of Mr. Dyson. Mr. Dyson asked him to look at the proposed legislation and to offer his thoughts on it. He has been a Land Use Planner in the Hudson Valley for over 20 years. In most instances he has worked on behalf of a developer and he has a great deal of experience in preparing SEQR applications and municipal Planning Board applications.

Mr. Kane said he understands your goal of preserving the wetlands and preserving the resources of the community, however said that the town may be off the mark a little too much for what is seen in the town right now. In your findings you express your concern with unregulated land development. There is no such thing as unregulated land development. He said his first reaction to the law was surprise because of the tax implication. Most communities are saying there is no money. He is surprised the town wants to use tax dollars to create a new bureaucracy. You will hire a wetland administrator and create new administrating process which will be controlled by your zoning administrator. You can achieve the same goals by using the SEQR process. The difference between the law and what you do now, is SEQR requires a permit only when there is an impact. Once you do the proposed permitting process you still have to follow

SEQR. This law presumes that every wetland has every functional value. Some wetlands aren't very valuable. I am not a wetlands biologist. Steve knows what he is doing. It takes some skill to understand the soil and vegetation and how the wetland ecology works. Your local law presumes an impact and that the wetland has a value. SEQR says first establish if there is a wetland, then you determine if there is an impact, and can mitigation be accomplished. With your application, no permit shall be considered until the applicant has demonstrated they have no reasonable alternative, they are presumed guilty. It's an extreme one. If you follow the SEQR process then you determine if there is an impact, what is the function of the wetland and can it be mitigated. Every wetland is treated with the same degree of deference and the same standard of no reasonable alternative.

Another area that raises some concerns is the cost and time to go through the permit process. Using as an example a family with a 200 acre farm, and they want to create 4 - 50 acre lots. I went through all of the analysis for the out of pocket expenses for the applicant, and the amount of time an application might take for a comprehensive plan reviews can be between \$50,000 – \$100,000.00. Estimating the time it will take from the time one submits an application and when the review is complete could be 10 ½ months. It would make sense to require the information up front, so as not to delay someone's process.

Another area of concern is the amount of land in a controlled area. Mr. Kane used the following example of a small incursion of a large offsite wetland. If the offsite wetland is larger than one acre, with 5 feet on my property, then there is a 100 foot controlled semi circle on my property. This is a controlled area without knowing if there is any impact on the environment.

In the case of an Intermittent water course, which is one that may only run 3 months during the year, the controlled area is 50 feet from top of bank, which equates to a 110 foot wide controlled area, on a hypothetical one acre lot. The band of the controlled area would be more than ½ an acre of land or 52% of the acre. It is surprising that a 200 foot intermittent water course almost half an acre controlled. This is surprising because you are not requiring information on the resource you are trying to protect.

Mr. Kane said most people are good stewards of the land. In this law, the bad apples can be exempted, with the imbalance on the law abiding many. The

Town has a different way to get at this. You can identify those that are creating problems. He urged the town not to make an expensive law when you can use tools, such as SEQR, that you already have. Our next recommendation is to prepare a local law to go after the bad apples, not everyone in town. He offered his services to assist the town. An alternative is to draft language that is more direct and less onerous to the applicant and that equally protect the town resources.

Mrs. Ohrbach pointed out that Mr. Cantor and Mr. Kane do not live in Millbrook. Mr. Dyson said that they are working with him, and he lives on his family farm on Route 82 in Millbrook. Mrs. Ohrbach said I want to say that we go ahead with this law. We want to make it as an effective, efficient and as stringent as we can in order to protect the environment we live in every day. This law is necessary for the children to see the birds and animals, flora and fauna that are here today.

Dr. Schlesinger said he is a resident of Linden Lane and President of the Cary Institute for Ecosystem Studies. He said he is here to speak in favor of this legislation. It has been amply demonstrated that SEQR, while better than nothing doesn't work on cases with less than 5 acres. He said he would like it to be stronger. This is a good first step of protection of the wetlands. He agreed that some wetlands are more valuable than others and the way to understand that is to have more studies before an impact is made. He said that this law is quite admirable in what it proposes. He noted that there hasn't been much said about value of wetlands. A huge number of residents depend on groundwater as their water supply. He said once contaminated once depleted. The wetlands cleanse the groundwater. They do it quietly, seasonally, and they add value to things we use every day. In ecosystem services, wetlands are the hot spot of eco system. Seasonally they add value. It is beyond an aesthetics and ethical value; they have economical value to each of us. He said he would like to see buffer increased from 50 to 100 feet for smaller wetlands. Dr. Klemens has addressed that in his submittals to the town. He would like to hear comments about his submission. He applauded the town for going this far.

Mr. Rosse didn't notice any kind of sympathy to the taxpayer. The owner of the wetlands is not considered in any way. He said this is infringing on property rights.

Mr. Galente asked if he currently has a parcel where they can build and if this law passed and I cannot build on it, will I still have to pay taxes. Supervisor Prisco said yes. Mr. Galente asked will the town reassess the property. The Town has not had any discussion that there will be a reassessment on the land. Mr. Asklidsen said in his experience if you have a lot that lot is buildable, non-conforming lot, if you have a subdivided lot you will get something on the lot...the town will lose in court...you may not get a 5 bedroom home maybe a 2 bedroom. Councilman Audia said the town has been through this. Mr. Asklidsen continued that a property may be developable to a point, but not where you may wish it to be. It is hard for the town to do a taking. Even with a landlocked lot, you are still taxed and if it is a legal lot, you are taxed on it. Mr. Marino said with the exception of a couple of situations in Westchester, folks are allowed some reasonable use of their property. Accommodations are allowed for a construction buffer and even to fill in part of the wetland. It is rare and unusual for a Board to outright deny an application. Councilman Audia said that if you have a driveway and septic system approval you can generally build.

Mr. Barger said that he is against this law in every form. He asked could the town put a poll on the website. Town Clerk Alex said yes, the town could do so. Supervisor Prisco said the Town Board would need to discuss this. Mr. Barger said he is unsure if the Town is hearing from all the residents..

Mr. Asklidsen said most people don't intentionally set out to damage wetlands. On his road, two new houses have been started this year. These projects have been polluting his pond, and the tributary. It is the site developer and the excavators on site that have no protection measures. During rain events the water cascades down the road into his pond, the creatures will die, who knows what will leach into my well, the Shaw Brook will run brown. Mr. Asklidsen said if the town had the wetlands ordinance the contractors would have had sufficient hay bales and silt fence. This needs to be enforced. The most important thing that the town has is the aquifer. It is an important charge of the town board to protect the aquifer. Mr. Asklidsen predicted that when the economy improves there will be substantial applications for subdivisions. They'll come in and develop and get out.

Mr. Van Tassel said that he is a lifetime dairy farmer. He has asked the same questions and he is still waiting for the answers. One of the most important things you have to think about is the tax implication. He stated that the Town is very stable and that there are people that adore the environment. This law will not stop the few bad people. They will not change. As many of you know, dairy farming is a very difficult situation. The reality is that when I retire my farm will be sold. My family has taken care of the farm for the public good. The soft and fuzzy language about the public good is a disregard to the private property owner. The cost of what it is entailed if I sell my farm is very high. This is 24 pages of you can't and we may ask for and we may. No value placed on what wetlands need to be protected.

Dr. Schlesinger said that the IES position we're studying these wetlands and that wetland science is not done. We have a lot of information but much more can be learned about them.

Mr. Van Tassel said there is enough bureaucracy already in place. This law does not help the goal. This will only bring lawyers to the table. Nothing is succinct. We all love vernal pools and we all love the wetlands. This is overkill. A project may be unable to go forward if one neighbor complains and the project gets dragged out. How long could my application go on for with this law? My feeling is that issues are not being answered. This is a bad law being rammed down our throats and it will not help wetlands.

Mr. Ciferri said he had written a letter when the first draft of the law was introduced that he was against the regulation and he is still against the legislation. He said it is over regulated and will only create a bureaucratic mess. This will cost town a lot to enforce. My family has been here for 110 years and this has been a pretty nice community and we plan to keep it that way. He urged the Board to vote against it. It is not a good law.

Dirk-Jan Rosse said he sits on a water resource. What is absent from this law is the interaction of wetlands with drinking water. This law doesn't protect the surface water and it doesn't protect me from salt runoff. The Town's law restricts my behavior because of a wetland. My taxes have doubled and the Town will incur costs with a wetland specialist. Surface water is controlled by the SPDES law. They're regulating 10,000 square feet. In order to drive a bulldozer I need a

card or have daily or weekly inspection. Town doesn't want to get into business to regulate these inspections. Add up with the cost and what we will get out of it. We want drinkable water. You're not regulating the pollutants. I'm against this.

Mr. Schuman said there are many different opinions. He thanked the committee for putting a lot of time and effort into this law. He said this has been before the public as part of the Master Plan survey. My opinion doesn't count more or less than anyone else's. The Master Plan survey showed that this was the highest priority of people in town - to protect the natural resources and the water. This law can be stricter. The Town has gotten the poll. There have been two public meetings on the Comprehensive Plan and the people are interested in protecting the water resources.

Mr. Dyson, a resident at 3625 Route 82 said a poll is ridiculous. You are elected to make a decision. Dr. Schlesinger has said we should increase distance around buffers. He says every wetland is a significant part of our lives. I disagree. You must consider the cost of operating this. You need to do more than think about this. You need to put the dollars and cents figure on the cost if you want to do something under this law. I wish the law is as benign as you say. It is different than what we've got. It's more onerous more restrictive and infinitely more costly. If we tighten and codify even more, we will eliminate any growth in this town of any kind. To show how distorted this is, councilman Murphy mentions that it doesn't bother ag. It does if I want to do any draining of all or part of a wetland. I have wetland by my house and I dug a small pond. It fills quickly, and they called our farm Spring Hill Farm for a reason. I found out my fire insurance would go down substantially if I dug a bigger pond, so that's exactly what I did. If this law was in existence prior to digging, I would not have been able to do this because I was draining all or part of a wetland. I bought a piece of property to farm and in order to get to the land with a tractor I need to build a road. The road will go through a wetland. I can't do that either. All I'm suggesting is that while everyone is suggesting greater and stronger, that you consider the implications administratively, the cost, the effort and the disruption is so great you really have to consider what it does to the town adversely. What is process going forward? More meetings going forward? Supervisor Prisco said we will discuss this after the comments.

Mr. Campbell said he has concerns about this. He asked is this law to stop growth? No one wants to see Toll Brothers here. We have stopped it before for years with zoning. We've always had controlled development. We've had the occasional boom periods and we have had controlled development. Are we afraid of development in this town? Supervisor Prisco said the motivation is not to stop development.

Supervisor Prisco asked for a clarification on Mr. Dyson's agricultural question. Would he have to apply for a permit? Ms. Valk said that in the activity Mr. Dyson mentioned, it is one of the excepted activities. He would have to make an application, but it shouldn't be assumed that he would be denied. He would have to put in an application and get an approved permit under the scenarios mentioned. Mr. Dyson said he has to prove that there is no reasonable alternative. It is not automatically approved. Others could put up a stink if they don't like my project and it could result in delays and added expenses.

Mr. Loibl said he agrees with Mr. Dyson. He said he lives on Linden La. I have an acre pond that is a federal wetland. I've already been in communication with the DEC. I have applied for a permit and it is free. They will tell me what to do. This is an additional headache when I have an organization that I am in communication with. Don't see the need to go through an additional headache when I'm already in communication with an administering organization. I have to do both. It's another layer of bureaucracy. I don't feel we need this.

Mr. Schuman said there is a difference of opinion here. We have been talking about for a long time. It's important to keep in mind that people that have spoken at earlier public hearings in favor of the law.

Town Clerk Alex asked if the Board chooses to adopt the legislation, when will the application be available to the public and when will the Board be establishing the fees? The local law goes into effect when it is filed with the Secretary of State. Supervisor Prisco said they will have to work with Jack to establish the fee schedule. Ms. Valk said it would be her recommendation that the Board be prepared to establish the fees when they vote on the legislation.

Supv. Prisco asked how the Board felt about continuing the Public Hearing. The Board decided to keep the Public Hearing open until the October Board meeting, to allow for the public to submit comments in writing.

Supv. Prisco asked Mr. Van Tassell have you discussed your concerns with assessor? He said that several years ago he attempted to appear before the Board of Assessment Review, but it was so busy he was requested to write an application and he handed it in, but he has not had the opportunity to speak with the Assessor. Mr. VanTassell said this law eliminates the value of my property, we're paying tax on the highest possible value which is required by law. It is valued as if it is a developable property. Mr. Ciferri said he would probably have a case with this new law. He would go before the BAR and show what law has done to his value. He would bet that he would receive some relief.

Mr. Galenete asked if the Board has looked at how much taxes would be lost with this law. Ms. Valk said the town would not lose tax money, if someone's property value decreased the rest of the property owners absorb the increase.

Councilman Murphy said that some people looks at water and wetlands as a devalue of their property, while others look at it as an enhanced valued.

Mr. Campbell said there's been an unbelievable amount of work done on this law. He asked Councilman Murphy are you voting on this law or are you neutral. Councilman Murphy said he is not saying what the town board should vote on this. We were at a point that the law needed to be moved from the committee to the Town Board. We've listened to the public and have made changes to the legislation based on what people have told us.

Councilman M. Murphy said that personally he is in favor of the law. He said that in July we were out of water for 3 days. It has happened to us the last couple of years, since the house across the street was built. There is now water in a basement across the street and another neighbor has been without water for 4 days. People at the top of the hill are pumping water into Horsehoe Rd. I don't know if this law was in effect if this would not have happened. If the law was in effect, someone would have looked closer at the placement of the house. Mr. Ciferri said with the zoning laws we have in place today, that development would

never have been built. This summer the village had plenty of water in the drought.

Supervisor Prisco said the Town Board will keep the public hearing opened until the 10/14 and will determine whether the Town will close the public hearing or schedule another meeting. If you talk to people and they have opinions, please tell them to talk to us.

There being no other business, on a motion made by Councilman Audia and seconded by Councilman Turletes the meeting was closed at 10:30 PM. All ayes were recorded.

Mary Alex, Town Clerk