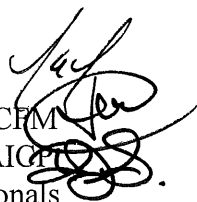


**MEMORANDUM**

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

CC: Lisa Pisera  
Judson Siebert, Esq.

FROM: Jan K. Johannessen, AICP  
Joseph M. Cermele, P.E., CFM  
David J. Sessions, RLA, AICP  
Consulting Town Professionals



DATE: June 13, 2014

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

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**Project Description**

The proposed action includes the construction of a 3-bedroom, single-family residence and associated porch, rear deck, permeable driveway, walkway, landscaping, septic system, potable water well, retaining wall, fencing, stormwater facilities and wetland mitigation. The subject property is located on Oscaleta Road (just south of its intersection with Cove Road), consists of ±0.69 acres of land, and is located within the Town's R-1/2A Zoning District. The property is constrained by wetlands that are regulated by the Town and the New York State Department of Environmental Conservation (NYSDEC). A Town/NYSDEC jurisdictional wetland is located along the westerly property line and a secondary, Town jurisdictional, wetland is centrally located on the subject property. While the majority of the house and physical above-ground improvements are proposed outside of the wetland proper, according to the applicant's calculation, the proposed action will result in 2,830 s.f. of disturbance within the wetland proper, 16,270 s.f. of disturbance within the Town's 150-foot wetland buffer, and the removal of ±34 mature trees (≥8" dbh).

### **SEQRA**

The proposed action is an Unlisted Action under the State Environmental Quality Review Act (SEQRA). The Planning Board is required to issue a Determination of Significance before acting upon the pending application.

### **Required Approvals and Referrals**

1. A Wetland Activity Permit is required from the Planning Board.
2. A Town Stormwater Permit is required from the Planning Board.
3. Preliminary and Final Subdivision Plat Approval is required from the Planning Board.
4. A public hearing is required to be held on the Preliminary Subdivision Plat and Wetland Permit. At the Board's discretion, the Planning Board may also hold a public hearing on the Final Subdivision Plat.
5. Access onto Oscaleta Road will require approval from the Town Highway Superintendent.
6. The proposed septic system and potable water well requires approval from the Westchester County Department of Health (WCHD) and the New York City Department of Environmental Protection (NYCDEP).
7. A variance from the NYCDEP is required for the installation of a septic system within the NYSDEC wetland adjacent area.
8. The applicant has obtained an Article 24 Freshwater Wetland Permit from the NYSDEC.
9. The applicant will require coverage under the NYSDEC SPDES General Permit for Stormwater Discharges from Construction Activity (GP-0-10-001).

### **Part 1 EAF Review**

- 1.0: Project Description: The total proposed land disturbance identified in the project description shall coincide with that shown on the site plans (19,100 s.f.).
- C.7: The predominant land uses within 1/4 mile of the subject property must be identified.

## **Part 2 EAF Review**

### Impact on Water

- 4.3: The area of disturbance proposed within the wetland proper and buffer has changed and shall be revised to reflect the latest site plan.

### Growth and Character

- 19.7: The proposed action may set an important precedent for future projects and should be evaluated; the applicant shall mark “potentially large impact”.

## **Part 3 EAF Review**

The applicant must provide a detailed written evaluation of each “potentially large impact” identified in Part 2 of the EAF for the Planning Board’s review.

### **Plan Comments**

1. As stated in prior review memorandums from this office, the Wetland Ordinance strives for a 1:1 mitigation ratio and a no-net-loss of wetlands and buffers. According to the plans submitted, the proposed action will result in 2,830 s.f. of wetland disturbance and 16,270 s.f. of wetland buffer disturbance (19,100 s.f. total). The applicant has identified a total of four (4) mitigation zones on the subject property totaling 17,915 s.f. in area, which it believes will satisfy the intent of Section 217-8E of the Town Code (“activity permit mitigation plan”).

Currently, the applicant’s mitigation plan falls  $\pm 1,185$  s.f. short of a 1:1 mitigation ratio and our office continues to encourage the applicant to provide additional appropriate mitigation to achieve at least a 1:1 ratio. Our office had previously recommended additional forms of mitigation that could be integrated into the plan to achieve the 1:1 mitigation standard; however, the majority of these measures have not been incorporated by the applicant.

- We had previously recommended a further reduction in bedroom count. While the applicant claims that such a reduction would not reduce the size of the proposed residence and is not financially feasible, we continue to stress that regardless of house size, such a reduction would decrease the amount of effluent and the size and extent of the septic system, which could be counted towards mitigation.

- We had recommended that the applicant investigate the possibility of providing off-site mitigation. While the applicant has made an inquiry with the Town Board regarding the utilization of Town-owned property for off-site mitigation projects and has reached out to the Three Lakes Council regarding use of the adjacent property, the applicant has not been successful, thus far, in obtaining permission to perform such work. Considering the minimal opportunity for on-site mitigation, we continue to encourage the applicant to investigate off-site mitigation opportunities with private, State and County land owners within the Town (preferably within the Lake Waccabuc Watershed).
  - While the design/approval of the septic system is under the WCDH and NYCDEP's jurisdiction, we had recommended that the applicant consider incorporating a microbial inoculation system to further treat contaminants such as phosphorus and nitrogen. Contrary to the applicant's response, such treatment systems are not strictly utilized for commercial applications and have been successfully applied to residential septic systems throughout the County. Our office continues to support the use of a microbial inoculation system as additional mitigation.
  - The Planning Board has repeatedly requested that the proposed split rail fence be located on the easterly side of the proposed septic system expansion area, generally along the proposed 484' contour. While the applicant claims that the NYSDEC and NYCDEP required the fence be installed in its present location, there is no reason to believe that either agency would object to relocating the fence, as requested, which would provide further protection to the wetland and buffer area.
2. The wetland mitigation plan shall be revised to include a scale (the scale of the drawing could not be determined) and a north arrow. Further, Mitigation Areas #4, #5, and #6 are not correctly identified on the table and the wetland boundary line must be revised in accordance with Comment # 3 below.
  3. While Wetland Flags #7, #8 and #13 have been depicted on the site plan, as requested, the wetland boundary line in the vicinity of Wetland Flags #7 and #8 remains inconsistent with the July 2012 wetland delineation and our October 2012 wetland boundary confirmation. The wetland boundary line must be modified, as previously recommended. We note that the current location of the septic tank and service connection may need to be relocated to be positioned outside of the wetland proper, in conformance with Section 217-5A(1) of the

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Wetland Ordinance, and the adjustment to the wetland line needs to be reflected in the wetlands disturbance analysis chart.

4. The site plan has gone through a number of modifications since the WCHD, NYCDEP, and NYSDEC had reviewed and conditionally approved the plans (most notably the bedroom count, location of well, stormwater location and design, introduction of a retaining wall within 5 feet of the septic expansion area, and installation of a drainage swale within 50 feet of the septic). While the applicant has submitted correspondence from the NYSDEC amending its permit to reflect the plan changes, the applicant has not provided correspondence from the WCDH or NYCDEP conditionally approving same. As previously requested, the applicant should provide copies of correspondence from both the WCDH and NYCDEP conditionally approving the revised plan.
5. The applicant has revised the SWPPP to address all prior comments related to stormwater quality, stormwater attenuation, hydrologic analyses, mitigation system sizing, construction sequencing and long-term maintenance. It is noted, however, that the soil percolation rates used in the hydrologic analysis can not be confirmed by this office since we did not witness soil testing in the vicinity of the proposed infiltration practice. Final acceptance of the SWPPP, therefore, would be pending soil testing witnessed by this office to confirm the infiltration rates used in the design.
6. While this office is in agreement with the FEMA Zone A Floodplain Boundary illustrated on the plan, it appears the applicant mistakenly included a copy of the wrong section of the FIRM Map in Appendix F of the SWPPP. This figure shall be updated prior to acceptance.
7. The following comments pertain to the submitted NYSDEC Notice of Intent (NOI):
  - Question #9: The percentage of the site consisting of Hydrologic Soil Groups A-D must be re-evaluated based on known on-site wetlands and soil testing.
  - Question #11: The duration of construction should coincide with the duration specified in the EAF (8 months).
  - Questions #14 and #15: Mark “yes”.
  - Question #22: Mark “No” and skip Questions #23 and #27-35.

It is noted that the applicant has submitted an older version of the NOI form. The information already provided, in addition to the corrections noted above, shall be transferred to the NYSDEC’s most recent version of the NOI and resubmitted for review.

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8. As previously requested, the applicant must submit a Town Stormwater Permit Application in accordance with Chapter 189 of the Town Code. As the Planning Board is the approving agency, the Stormwater Permit Application must be submitted before the Planning Board acts on this pending application.
9. Previous versions of the subdivision plat included the location of the wetland boundary (both lots) and a Bulk Zoning Table. As previously requested, the subdivision plat should be revised to include these items and correct the name of the Planning Board Secretary.

In order to expedite the review of subsequent submissions, the applicant should provide annotated responses to each of the comments outlined herein.

**Plans Reviewed, prepared by Petruccelli Engineering and dated (last revised) March 4, 2014:**

- Site Development Plan (1/7)
- Septic Plan (2/7)
- Erosion Control Plan (3/7)
- Existing Conditions Plan (4/7)
- Profiles & Cross Section Drawings (5/7)
- Septic and Well Detail Sheet (6/7)
- Erosion & Stormwater Detail Sheet (7/7)

**Plan Reviewed, prepared by Tim Miller Associates and dated (last revised) March 3, 2014:**

- Wetland Mitigation Plan

**Documents Reviewed:**

- Letter from Petruccelli Engineering, dated March 5, 2014
- Letter from Tim Miller Associates, dated May 27, 2014 (with attachments)
- Notice of Intent and MS4 Acceptance Form
- Full Environmental Assessment Form, dated (last revised) April 2, 2014
- Stormwater Pollution Prevention Plan, dated March 5, 2014

JKJ/JMC/DJS/dc