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**TOWN OF LEWISBORO**  
**Westchester County, New York**



**Planning Board**  
**PO Box 725**  
**Cross River, New York 10518**

**Tel: (914) 763-5592**  
**Fax: (914) 763-3637**  
**Email: [planning@lewisborogov.com](mailto:planning@lewisborogov.com)**

**AGENDA**

**Tuesday November 19, 2013**  
**7:30 P.M.**

**Town Offices @ Cross River**  
**Cross River Plaza, Cross River**

**Note: Meeting to end at or before 11:30 P.M.**

**I. SKETCH PLAN REVIEW**

**Jean Emond/Jane Balanoff, 70 Twin Lakes Road, South Salem, New York – Application for Wetland Activity Permit Approval to rebuild screened porch.**

**II. DECISION**

**Eager Beaver Tree Service, 131 Smith Ridge Road, South Salem, New York – Approval of median, as built.**

**Homeland Towers, LLC, and New Cingular Wireless, PCS, LLC (AT&T), applicants (Francis Coyle, Jr., and Ash Tree Development, LLC, owners of record) 117 Waccabuc Road, NYS Route 138, Goldens Bridge –Amendment to Resolution – Modification to the approved resolution dated December 11, 2012 regarding the landscaping bond. Cal# 5-12 PB**

**III. SITE WALK REPORTS**

**Hazelnut Farms, 21 Waccabuc River Lane, South Salem, New York (Lynn Bygott, owner of record), Application for Waiver of Site Development Plan Procedures to construct a covered riding ring.  
Cal # 7-13PB**

**Venanzio and Mary Cannova, 153 Main Street, South Salem, New York – Application for Wetland Activity Permit Approval to construct an addition to existing home.**

**Eric Gural and Nancy Bear, 106 Boway Road, South Salem, New York – Application for Wetland Activity Permit Approval to construct an addition to existing residence and expand/reconstruct existing septic system.**

**James Snyder, 42 Bishop Park Road, Pound Ridge, New York – Applications for Wetland Activity Permit and Stormwater Permit Approvals to construct a 3 season porch and new terrace, enclose existing porch, replace existing deck, and make interior renovations.**

**IV. DISCUSSION**

**Sarner/Trunzo Lot Line Change, Bishop Park Road, Pound Ridge – Application for Lot Line Change from Adam and Nancy Sarner, 25 Bishop Park Road, Pound Ridge N. Y. and Stacy Trunzo, 27 Bishop Park Road, Pound Ridge, N. Y Cal# 9-12 P.B. – Correction to Resolution dated September 17, 2013.**

**Rebecca Quitanilla, 138 Post Office Road, South Salem – Wetland Questionnaire – Cut dying trees, stack wood, mulch/chip branches, plant 15 Norfolk pines.**

**V. PUBLIC HEARING**

**Rudolph C. Petruccelli, Oscaleta Road, South Salem, New York - Application for Subdivision Plat Approval and Wetland Activity Permit Approval to permit the construction of a three bedroom, single-family residence and associated deck, porch, driveway, walkway, landscaping, septic system, potable well, fencing and stormwater facilities.**

**Cal # 8-12PB and Cal# 61-09 WP**

**VI. CORRESPONDENCE AND GENERAL BUSINESS**

**VII. MINUTES OF October 15, 2013**

**EMOND/BALANOFF**

**Cal# - Pending**

**Application for Wetland Activity Permit**

D E M O T T E  
· A R C H I T E C T S ·

RECEIVED  
10-17-13

October 17, 2013

Jerome Kerner, Chairman & members of the Planning Board  
Lewisboro Town Hall  
Cross River Shopping Center at Orchard Square, Suite L  
20 North Salem Rd.  
Cross River, N.Y. 10518

RE: Emond/Balanoff Residence  
70 Twin Lakes Road  
South Salem, N.Y. 10590

Dear Mr. Kerner & members of the Planning Board,

The attached application and site plan are being submitted to you for wetlands approval since there is "disturbance" within the 150' wetlands buffer. This letter shall serve as an introduction to the project which will outline the scope of work & site related issues.

**EXISTING CONDITIONS:**

The subject property is 0.656 acres in area, situated on the north side of Lake Oscaleta. The existing 1 story ranch house was originally built in 1953 and has been remodeled throughout the years. It is currently in fair shape & is in need of remodeling both inside & out. The property also needs some improvement, as the landscaping appears to have been neglected.

The homeowners (Jean Emond & Jane Balanoff) recently purchased the house as a weekend house, as their primary residence is in New York City. They bought the property specifically for it's location on the water & it's rural quality. The house & property both need work, & they have every intent to improve both with great care.

**PROPOSED CONSTRUCTION:** The following work is being proposed within the wetlands buffer area:

**Screened porch remodeling:**

The existing walls & roof of the screened porch are being removed and rebuilt, with the floor framing remaining. While one corner of the screened porch encroaches into the 50' buffer by approximately 5', there is no site work whatsoever.

**Terrace addition:**

A bluestone terrace is being proposed to the right side of the existing screened porch. The terrace is approximately 16'x17' in area, & the existing grade is flat; no re-grading would be required. According to the wetlands regulations I believe this qualifies as an "allowable activity", not requiring a wetlands permit.

**Terrace removal:**

The existing bluestone terrace at the front right corner of the house will be removed, and the area will be returned to lawn. The bluestone will be saved & reused at either the new rear terrace or front walks. The grade in this area is flat, so no re-grading is necessary. According to the wetlands regulations I believe this qualifies as an "allowable activity", not requiring a wetlands permit.

**Front walk reconstruction:**

The 2 bluestone walks in the front yard leading to the driveway & garage are in need of repair due to irregular settlement. Both walks will be removed & reset in a slightly different configuration. Note that both walks are not shown correctly on the existing conditions survey. No re-grading is to occur in this area. According to the wetlands regulations, I believe this qualifies as an "allowable activity", not requiring a wetlands permit.

**Repair of stairs & railing to lower deck & dock:**

The existing stairs & landings along the right side of the property (leading from the yard down to the lower deck & dock) are constructed of railroad ties with slate pavers set in concrete at the treads & landings, which have settled. The railroad ties shall remain, with the treads being removed & replaced. No disturbance to the ground will take place beyond the stairs. I believe this also qualifies as an "allowable activity", not requiring a wetlands permit.

**WETLAND DELINEATION:**

There are no wetlands on the property, as the edge of the lake is considered to be the wetlands boundary.

**IMPACT ON THE WETLANDS AND/OR BUFFER AREA:**

The proposed construction would have no impact on the wetlands or the buffer area. Silt fences would be installed where necessary (as shown on the Site Plan) to prevent any potential erosion. Based on the work being proposed, no erosion is expected.

The "area of disturbance" as shown on the Site Plan is approximately 3700 SF. The primary disturbance is limited to removing a bluestone terrace & restoring the area as a lawn, creating a bluestone terrace in what is currently a level lawn area & repairing 2 bluestone walks. The impact on the wetlands and buffer area is negligible.

**MITIGATION MEASURES:**

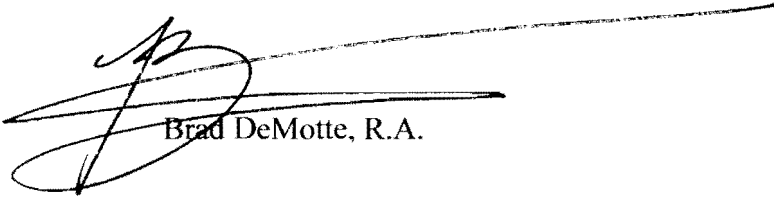
No mitigation measures are being proposed, as the impact on the wetlands and buffer area is negligible.

**EROSION CONTROL & SEDIMENTATION CONTROL PLAN:**

Silt fences will be installed around the areas of work, as shown on the Site Plan. Details of the silt fence along with installation guidelines are also provided on the Site Plan.

We look forward to discussing this project with you at the upcoming Planning Board meeting on November 19, 2103.

Sincerely,

A handwritten signature in black ink, appearing to be 'Brad DeMotte', is written over a horizontal line. The signature is stylized with a large loop and a long horizontal stroke extending to the right.

Brad DeMotte, R.A.

cc: Jean Emond  
Jane Balanoff



10-17-13

Application No.:  
Fee: 255 Date: 10-17-13

TOWN OF LEWISBORO  
WETLAND PERMIT APPLICATION

Town Offices @ Orchard Square, Suite L (Lower Level), 20 North Salem Road, Cross River, NY 10518  
Phone: (914) 763-3060  
Fax: (914) 533-0097

Project Information

Project Address: 70 TWIN LAKES RD.

Sheet: 03412 Block: 11831 Lot(s): 036

Project Description (identify the improvements proposed within the wetland/wetland buffer and the approximate amount of wetland/wetland buffer disturbance): REBUILD SCREENED PORCH.  
CREATE BLUESTONE TERRACE/REMOVE BLUESTONE TERRACE.  
REMOVE & REBUILD 2 WALKWAYS. REBUILD/REPAIR STAIRS TO DOCK.

Owner's Information

Owner's Name: JEAN EMPOND JANE DALANOFF Phone: 914.844.5944  
914.318.5572

Owner's Address: 225 CENTRAL PARK WEST # 903 Email: JE III @ COLUMBIA.EDU  
N.Y., N.Y. 10024 MJANEDALANOFF @ GMAIL.COM

Applicant's Information (if different)

Applicant's Name: SAME Phone: SAME

Applicant's Address: SAME Email: SAME

Authorized Agent's Information (if applicable)

Agent's Name: BRAD DEMOTTE, R.A. Phone: 203.431.2890

Agent's Address: 635 DANBURY RD. Email: BRAD @ DEMOTTE  
RIDGEFIELD, CT. 06877 ARCHITECTS.COM

To Be Completed By Owner/Applicant

- What type of Wetland Permit is required? (see §217-5C and §217-5D of the Town Code)  
☐ Administrative ☒ Planning Board
- Is the project located within the NYCDEP Watershed? ☒ Yes ☐ No
- Total area of proposed disturbance: ☒ < 5,000 s.f. ☐ 5,000 s.f. - < 1 acre ☐ ≥ 1 acre
- Does the proposed action require any other permits/approvals from other agencies/departments? (Planning Board, Town Board, Zoning Board of Appeals, Building Department, Town Highway, ACARC, NYSDEC, NYCDEP, WCDOH, NYSDOT, etc): Identify all other permits/approvals required: BURR. DEPT. / HEALTH DEPT.

Note: Initially, all applications shall be submitted with a plan that illustrates the existing conditions and proposed improvements. Said plan must include a line which encircles the total area of proposed land disturbance and the approximate area of disturbance must be calculated (square feet). The Planning Board and/or Town Wetland Inspector may require additional materials, information, reports and plans, as determined necessary, to review and evaluate the proposed action. If the proposed action requires a Planning Board Wetland Permit, the application materials outlined under §217-7 of the Town Code must be submitted, unless waived by the Planning Board. The Planning Board may establish an initial escrow deposit to cover the cost of application/plan review and inspections conducted by the Town's consultants.

For administrative wetland permits, see attached Administrative Wetland Permit Fee Schedule.

Owner/Applicant Signature: Jane C. Empond Date: 10/12/13

AFFIDAVIT OF OWNERSHIP

STATE OF )  
COUNTY OF ) ss:

JEAN C. EMMOND, being duly sworn, deposes and says that

she/he resides at 70 TWIN LAKES RD.

in the County of: WESTCHESTER

State  
of: NEW YORK

And that she/he is (check one) (1) the owners, or (2) the \_\_\_\_\_  
Title

of \_\_\_\_\_  
name of corporation, partnership or other legal entity

which is the owner, in fee of all that certain lot, piece or parcel of land situated, lying  
and being in the Town of Lewisboro, New York, aforesaid and known and designated  
on the Tax Map in the Town of Lewisboro as Lot Number 036

Block 11831 on sheet 03413

For (check one):

- ☐ SKETCH PLAN REVIEW    ☐ PRELIMINARY SUBDIVISION PLAT    ☐ FINAL SUBDIVISION PLAT  
☐ SITE DEVELOPMENT PLAN    ☐ SPECIAL USE PERMIT    ☐ WAIVER OF SITE PLAN PROCEDURES  
☒ WETLAND PERMIT    ☐ STORMWATER PERMIT    ☐ FILING WITH WESTCHESTER COUNTY CLERK

Jean C. Emmond  
Signed

Sworn to before me this

9th day of October, 2013

Yapheth Santos  
Notary public (affix stamp)

YALIZ A SANTOS  
Notary Public, State of New York  
No. 0156266326  
Qualified in New York County  
Commission Expires July 23, 2016

## LETTER OF AUTHORIZATION

To whom it may concern,

I JEAN C. FURIO, authorize BRAD DEMATE to ~~act~~ on our behalf in all matters regarding access to public records & filing for permits & approvals for the property at:

Address: 70 TWIN LAKES RD  
SOUTH SALEM, N.Y.

Sincerely,

JEAN C. FURIO  
Print name

Jean C. Furio  
Signature

10/12/13  
date

**MEMORANDUM**

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

CC: Aimee Hodges  
Lawrence Praga, Esq.

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

DATE: November 13, 2013

RE: Jean Emond and Jane Balanoff  
70 Twin Lakes Road  
Sheet 34B, Block 11831, Lot 36

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**Project Description**

The subject property consists of  $\pm 0.65$  acres of land located at 70 Twin Lakes Road and within the R-1/2A Zoning District. The subject property is currently developed and includes a single-family residence, screened porch, front patio, walkways, detached deck, dock, gravel driveway, septic system and well. The applicant is proposing to reconstruct the screened porch and install a new bluestone terrace. The applicant is also proposing to remove the front at-grade patio, replace two (2) bluestone walkways located at the front of the house, install two (2) stone piers at the garage to support architectural columns, and repair portions of a walkway leading to the lake. The subject property is located adjacent to Lake Oscaleta; a portion of the screened porch is located within 50 feet of the lake and the remaining site improvements are located within the Town's 150-foot wetland buffer.

**SEQRA**

The proposed action is a Type II Action and is categorically exempt from the State Environmental Quality Review Act (SEQRA).

### **Required Approvals**

1. A Wetland Activity Permit is required from the Planning Board.
2. A public hearing is required to be held on the Wetland Activity Permit.

### **Comments**

1. The Board should note that the reconstruction of the screened porch involves no foundation work and, therefore, will not result in land disturbance. Further, as the proposed bluestone patio is smaller in area than the front patio to be removed, it appears that the proposed action will result in a slight decrease in impervious cover.
2. The location(s) of existing/proposed roof leader drains and discharge locations should be identified on the plan.
3. The applicant should identify whether any existing vegetation within the wetland buffer is proposed to be removed as part of this project.
4. We note that, while the reconstruction of the screened porch, the installation of the 16' x 17' bluestone patio, and the installation of two (2) stone piers at the garage are regulated activities requiring a Wetland Permit, the removal of the front patio/ground restoration and repair and replacement of on-site walkways are "allowable" activities and are not regulated under Chapter 217.

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

### **Plans Reviewed:**

- "Site Plan" (SP-1), prepared by Demotte Architects and dated October 17, 2013
- "Title Survey", prepared by Solo Surveying, Inc., dated May 30, 2013

### **Documents Reviewed:**

- Wetland Permit Application
- Letter prepared by Demotte Architects, dated October 17, 2013

JKJ/JMC/DJS/dc

**To:** Town of Lewisboro Planning Board

**From:** Lewisboro Conservation Advisory Council (CAC)

**Subject:** Emond/Balanoff Sketch Plan-WETLAND ACTIVITY PERMIT  
70 Twin Lakes Road  
South Salem, New York 10590  
Block 11831, Lot 36, Sheet 34B

**Date:** November 4, 2013

---

The Conservation Advisory Council (CAC) has reviewed the Sketch Plan and the Wetland Permit application for this property.

According to the sketch plan and application, the project envisions the partial demolition and subsequent upgrading of an existing porch, maintaining its current location and footprint AND the creation of a new bluestone terrace in conjunction with the removal of a similar terrace (currently in a different location adjacent to the residence). Two bluestone walkways and certain existing railroad tie steps will be repaired/replaced.

Per the application, no re-grading is being planned.

At this time, the CAC sees no significant conservation related issues with this project, as proposed. We do recommend, however, that a site walk be conducted to help us better assess the project.

**REBECCA QUINTANILLA**

**Block 10803, Lot 20, Sheet 26**

**Wetland Questionnaire**

pd 11/26/13  
 chrt# 590  
 Receipt # 28155

## TOWN OF LEWISBORO ENVIRONMENTAL QUESTIONNAIRE

The purpose of this Questionnaire is to determine whether a Town Wetland Permit, a Town Stormwater Permit and/or Coverage under the NYSDEC SPDES General Permit for Stormwater Discharges from Construction Activity is required. This form does not provide authorization to commence work.

**Project Information**

Project Address: 138 Post Office Road South Salem 10590  
 Sheet: 26 Block: 10803 Lot(s): 20

Project Description: Cut down decaying Ash trees; stack wood; mulch / chip branches; plant 15 Norfolk pines

This questionnaire must be accompanied with a Site Plan or, at a minimum, a Plot Plan which clearly illustrates the location and dimensions of the proposed activity. Said plans must include a line which encircles the total area of proposed land disturbance and the approximate area of disturbance must be calculated (square feet). Failure to submit these items will delay review.

**Owner's Information**

Owner's Name: Rebecca M Quintanilla Phone: 203-216-3686  
 Owner's Address: 138 Post Office Rd. South Salem Email: Rebecca.MQ@me.com

**Authorized Agent's Information** (if applicable)

Agent's Name: Keith Bauer Phone: 914-438-3521  
 Agent's Address: 91 Spring St. South Salem NY Email: \_\_\_\_\_

I hereby grant permission to the Town's professional consultants to enter onto my property to conduct a site inspection.

Owner/Agent Name (signature):  Date: 11/11/2013

FOR TOWN USE - PLEASE DO NOT WRITE BELOW THIS LINE

- The use of the property is? ☒ Residential ☐ Nonresidential
- Is a Town Wetland Permit required? ☒ Yes ☐ No ☐ TBD
- If Yes, what type of Wetland Permit is required? ☐ Administrative ☐ Planning Board ☒ TBD \*
- Is the project located within the NYCDEP Watershed? ☒ Yes ☐ No
- Area of proposed disturbance: ☒ < 5,000 s.f. ☐ 5,000 s.f. - < 1 acre ☐ ≥ 1 acre ☐ TBD
- Is a Town Stormwater Permit required? ☐ Yes ☒ No ☐ TBD
- If Yes, the approval authority will be? ☐ Town Engineer/SMO ☐ Planning Board ☐ TBD
- Will the project require coverage under the NYSDEC General Permit for Stormwater Discharges from Construction Activity? ☐ Yes ☒ No ☐ Requires post-construction stormwater practice
- Application Fee (if required): \$ TBD \* (Wetland Permit) \$ N/A (Stormwater Permit)

Notes: **\* THIS APPLICATION WILL BE DISCUSSED AT THE 11.19.13 PL. BOARD MEETING.**

Signature: 

Date: 11.13.13



**PETRUCCELLI**

**CAL# 8-12PB**

**CAL# 61-09WP**

**PUBLIC HEARING**

# **TOWN OF LEWISBORO**

## **NOTICE OF PUBLIC HEARING**

**NOTICE IS HEREBY GIVEN** that the Planning Board of the Town of Lewisboro, Westchester County, New York will convene a Joint Public Hearing on November 19, 2013 at 8:15 p.m., or soon thereafter, at the Town Offices @ Orchard Square Plaza, Lower Level, Cross River, New York, regarding the following:

**Cal # 8-12PB and Cal #61-09WP**

**Application for Subdivision Plat Approval and Wetland Activity Permit Approval from Rudolph C. Petruccelli, 21 Halsey Place Valhalla, New York to permit the construction of a three bedroom, single-family residence and associated deck, porch, driveway, walkway, landscaping, septic system, potable well, fencing and stormwater facilities. The property is located on Oscaleta Road, south of Cove Road, consists of approximately 0.69 acres of land, and is located within the Town's R-1/2A Residential Zoning District. The property contains wetlands that are regulated by the Town of Lewisboro and a wetland regulated by the Town of Lewisboro and the New York State Department of Environmental Conservation (NYS DEC) is located along the westerly property line. The proposed action includes disturbance, land improvements and/or grading within the wetland proper and wetland buffer. A copy of materials and proposed site documents may be inspected at the office of the Planning Board Secretary, 20 Orchard Square, Suite L, Cross River, New York during the regular Planning Board hours. Persons wishing to object to the application should file a notice of objection with the Planning Board together with a statement of the grounds of objection prior to the closing of the Public Hearing. All interested parties are encouraged to attend the Public Hearing and all will be provided an opportunity to be heard.**

**PLANNING BOARD  
TOWN OF LEWISBORO  
By: Jerome Kerner  
Chairman**

**Dated November 14, 2013**

**The Town of Lewisboro is committed to equal access for all citizens. Anyone needing accommodations to attend or participate in this meeting is encouraged to notify the Secretary to the Planning Board in advance.**

**TIM  
MILLER  
ASSOCIATES, INC.**

NOV 11-6-13

---

10 North Street, Cold Spring, NY 10516 (845) 265-4400 265-4418 fax [www.timmillerassociates.com](http://www.timmillerassociates.com)

November 5, 2013

Ms. Lisa Pisera  
Town of Lewisboro Planning Board  
Cross River Shopping Center @ Orchard Square  
Suite L (Lower Level)  
20 North Salem Road  
Cross River, NY 10518

RE: Site Development Plan  
Rudolph C. Petrucelli  
Oscaleta Road Lot 46  
Town of Lewisboro, Westchester County, NY

Dear Ms. Pisera:

Attached please find information related to a current Planning Board application for Rudolph Petrucelli on Oscaleta Road. Mr. Petrucelli is proposing the development of an existing single family lot. A portion of this lot contains a Town-regulated wetland. A wetland functional assessment report and other information related to the wetland permit application is enclosed.

We look forward to speaking with the Board about this application at their next meeting on November 19, 2013. Feel free to call if you have any questions or if we can be of further assistance.

Sincerely yours,



Steve Marino, PWS  
Senior Wetland Scientist  
TIM MILLER ASSOCIATES, INC.

## Wetland Functional Assessment

Project: Petrucelli Property  
Lot 46, Oscaleta Road  
Town of Lewisboro, NY

Prepared By: Steve Marino, PWS  
TIM MILLER ASSOCIATES, INC.  
10 North Street  
Cold Spring, New York 10516  
(845) 265-4400

**November, 2013**

## **Introduction**

The owner of the property at Lot 46 Oscaleta Road is proposing the construction of a single family residence with on-site sewage treatment system. Size of the overall parcel is 0.69 acres. Tim Miller Associates was retained to document and evaluate the existing wetland conditions using a standardized wetland assessment method. This report will also address the potential impacts of the proposal and consider some potential mitigation measures.

## **Existing Conditions**

The site is the location of an undeveloped parcel that is currently densely vegetated (Photos 1, 2 and 3). Much of this vegetation is non-native and invasive in nature, as described below.

A wetland as defined by the Town of Lewisboro, New York State DEC and the Army Corps of Engineers exists along the western property line of the subject parcel, associated with Lake Oscaleta (Figure 1). New York State regulates this wetland and a 100 foot adjacent area. An additional wetland area, as regulated by the Town of Lewisboro, was observed and delineated in the center of the site. The wetland area was flagged by Mary Jaehnig and is an accurate representation of the wetland boundary on this site. The entire site is within the 150 foot town jurisdictional buffer to a wetland. An earthen berm rises approximately four feet along the western edge of the property before the land slopes downward to the DEC wetland, separating the two wetland areas. A second berm which lies on an east-west axis forms the southern boundary of the wetland approximately 30 feet offsite to the south. An existing residence borders the site to the north, an undeveloped parcel to the south, and Oscaleta Road to the east. Total area of the town wetland is 7,700 sf.

Vegetation on most of the site is dominated by non-native, invasive species. Norway maple (*Acer platanoides*), barberry (*Berberis japonica*), garlic mustard (*Alliaria petiolata*), burning bush (*Euonymus alata*) and stiltgrass (*Microstegium vimineum*) are the dominant species in the area of the proposed house construction and over most of the site. The pocket of wetland is dominated by red maple (*Acer rubrum*), with occasional winterberry (*Ilex verticillata*) and spicebush (*Lindera benzoin*).

The small pocket of wetland that is the main subject of this application is a depressional area which was created by the construction of the two berms on the southern and western borders of the wetland. As shown on the attached series of aerial photographs, the berms were created between 1960 and 1976, essentially trapping any stormwater runoff within this shallow basin. The water that was impounded in this area would have resulted in the loss of any upland vegetation species that were previously occupying this location, and saturated surface soils conditions. The NRCS Westchester County Soil Survey shows the site as having Paxton fine sandy loam soils, which are decidedly not hydric soils. However, due to the continuous man-made saturated soil conditions, standing water remains on the site. No hydrophytic vegetation has developed within the impounded areas; some red maple trees remain, likely from before the berms were built (Photos 4, 5 and 6). Occasional winterberry and spicebush shrubs do exist on the perimeter of the wetland. These are FACW species that are tolerant of moist but not inundated conditions. During two site visits in September and October of 2013 there were a significant number of mosquitoes flying around and in larval stages within the shallow pool of water.

When the berms were created in the 1960's, runoff from the adjacent property collected within this area where water was now trapped. With time, the native vegetation within this low spot

died with the exception of the red maple trees. Drainage from the adjacent house site to the north continues to be discharged into this area via a six inch pipe that extends from the neighbor's parcel onto the subject property (Photo 7). If the berm were to be breached and the natural drainage flow restored, it is most likely that the area would be restored to an upland condition with some occasional runoff during heavier rain events.

### **Current Proposal as Reviewed**

The owner of the property proposes to construct single family residence on this the site. The berm at the western edge of the property, which was found to be made up of sand and gravel, will be used for the proposed septic system. The location of the septic system within 100 feet of the DEC wetland has been approved by the DEC.

A portion of the Town wetland (approximately 2,600 square feet) as described would be filled to create a rear yard. A retaining wall would be constructed along the southern end of the property to physically separate the development area from the remainder of the wetland. Planting and other enhancement activities would occur as described below under "Mitigation Measures". The majority of trees that would be removed for construction are Norway maples.

In order to minimize stormwater runoff, permeable pavers would be used for the driveway rather than asphalt. A system of in-ground infiltrators will be used to capture and treat runoff from the new residence.

### **Functional Analysis**

The functional evaluation for this report focuses on the small Town-regulated wetland. The small pocket is separated from the DEC wetland to the west by the existing berms and the disturbed vegetation community, which isolates it from the larger wetland system. The two systems are not hydrologically connected, as the berm cuts off any surface connection between the two.

Included with the description of the site wetland area is an evaluation of wetland functions. This evaluation was completed using the Magee Hollands "Rapid Procedure for Assessing Wetland Functional Capacity". The model is set up to allow evaluation of several parameters related to wetland value and function. These parameters are:

1. Position in the landscape
2. Hydrology
3. Soils
4. Vegetation

These parameters are further divided into a number of specific variables, including:

1. Modification of groundwater discharge
2. Modification of groundwater recharge
3. Storm and Flood-water storage
4. Modification of Stream Flow
5. Modification of Water Quality
6. Export of Detritus
7. Contribution to Abundance and Diversity of Wetland Vegetation
8. Contribution to Abundance and Diversity of Wetland Fauna

By evaluating aspects of each of these variables based on existing site conditions, it is possible to evaluate the functional capacity of the existing wetland, and make preliminary planning decisions relative to future conditions. While this modeling technique is more commonly used for larger, more mature wetlands, a qualitative assessment of functions is still possible at this smaller scale. An overview of the "Rapid Procedure for Assessing Wetland Functional Capacity" is provided along with the assessment data sheets, which are attached. This overview discusses the development, assumptions and limitations of this modeling method.

### *Wetland Function*

As described above, the site wetland is a small depressional area created by cutting off the natural drainage to the larger wetland system to the south. The trapped water has inundated and drowned the former upland vegetation, and results in a poorly drained man-made pocket.

<b>Oscaleta Road Wetland Results of Wetland Evaluation Existing Condition</b>	
Function	Functional Capacity
Modification of Groundwater Discharge	n/a
Storm and Flood-water Storage	moderate
Modification of Stream Flow	n/a
Modification of Water Quality	moderate
Export of Detritus	n/a
Contribution to abundance and diversity of Wetland Vegetation	low
Contribution to abundance and diversity of Wetland Fauna	low

When the overall wetland function is assessed, this wetland is considered to be functioning at a moderate level for storm and floodwater storage and modification of water quality. These functions are related to stormwater runoff and the capture of any discharge from the pipe from the adjacent property, which is filtered through the leaf litter on the ground surface and conveyed to the depressional area. The flat slope of the site serves to slow down flows, resulting in a longer residence within the wetland, and the presence of the berm preventing the water from exiting the site prolongs the residence time within the wetland in which bacteria can act to break down nutrients. Suspended sediments thus have a longer time to settle within the wetland, but without the usual dense herbaceous vegetation that provides uptake of nutrients (particularly nitrogen) during the growing season this function is compromised. The small size and depth of the depressional area also limits the stormwater storage function.

The wetland is rated as low for vegetative and wildlife diversity. This is again related to the small size of the wetland and the fact that it was created fairly recently due to past site activities. The majority of the vegetation in and around the wetland pocket are non-native invasives, which provide poor vegetative cover and are of low interest to native wildlife species. The pooled area has the potential for being habitat for amphibian species such as frogs and newts, but is not being used by these animals as evidenced by the high concentration of mosquitoes on the site.

Because the wetland is isolated from downstream areas by the created berms, the wetland shows only minimal function as a source of stream flow and groundwater discharge.

### **Direct Impacts to Site Wetlands**

The applicant proposes to build a single family residence with permeable driveway and inground septic system. In order to create a rear yard and access to the septic area, the applicant proposes to fill or regrade 2,600 square feet of the town wetland. The area would be graded so as to form a swale to carry runoff to the south, but would be high enough to avoid future ponding.

It is proposed to construct a three foot high retaining wall along the south side yard to physically separate the development area from the remaining wetland. A comprehensive mitigation/enhancement plan, as described below, will be implemented south of this retaining wall.

The activities as described will not impact the ability of the wetland to perform the functions that are currently attributed to this wetland. The re-graded rear yard will continue to collect and convey the stormwater runoff toward the wetland, where it will be captured and stored. Biological and physical filtering of the collected stormwater will continue.

### **Mitigation Measures**

It is proposed to implement the following comprehensive mitigation and enhancement plan for the remaining wetland and adjacent areas.

- 1) The use of permeable pavers rather than asphalt for the proposed driveway, in order to ensure continued infiltration of stormwater runoff. Similarly an underground infiltration system will be constructed to capture and treat any roof runoff, avoiding the direct impact of nutrient-loaded roof runoff to the wetland.
- 2) Enhancement of the remainder of the existing wetland with hydrophytic plant species within and adjacent to the inundated area. Seventeen existing red maples will remain within the wetland, and will be supplemented with herbaceous species including tussock sedge, soft rush, cardinal flower and cinnamon fern, and shrub species such as winterberry, summersweet, highbush blueberry and elderberry.
- 3) After installation of the septic system, seeding of the area with Ernst Conservation Seeds mix ERNMX-105, a grass and wildflower blend that will stabilize the septic area and provide a wildflower meadow that will attract birds, butterflies and small mammals. This area will be mowed twice a year to prevent the growth of woody materials.
- 4) The area between the western extent of the septic area and the western property line will be cleared of invasive and non-native species, re-seeded with a buffer mix that includes wildflower and shrub species (ERNMX-178), then placed in a conservation easement. Total area to be put in the easement is 6,751 sf.
- 5) The low-lying area between the retaining wall, the wetland boundary and Oscaleta Road will be excavated one to two feet deep and re-planted as an extension of the Town wetland. Two new red maple trees will be planted, along with five winterberry and high bush blueberry, and the area seeded with ERNMX-137, a seed mix specifically for shaded wetland areas. A total of 1,276 sf of new wetland will be created in this manner.



Using these methods, the mitigation plan will result in a wetland/buffer system that is similar to the existing wetland in terms of stormwater management and water quality functions, and superior to the existing wetland for vegetative diversity and wildlife habitat.

### Key to Photos

Photo 1: Existing site vegetation

Photo 2: Existing site vegetation, view looking north

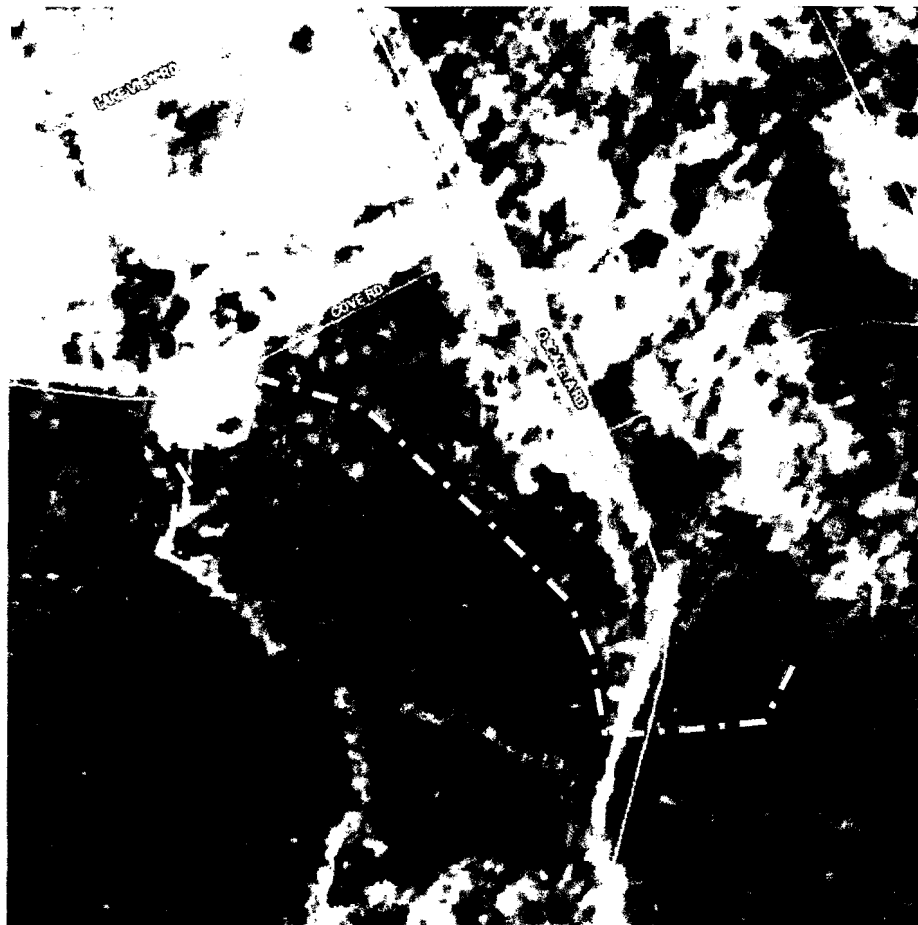
Photo 3: Existing site vegetation, view looking south

Photo 4: South end of existing wetland pocket, showing berm and debris

Photo 5: Existing vegetation in pocket wetland

Photo 6: Existing vegetation, eastern end of wetland pocket

Photo 7: Existing 6" pipe that drains to site from adjoining property to the north



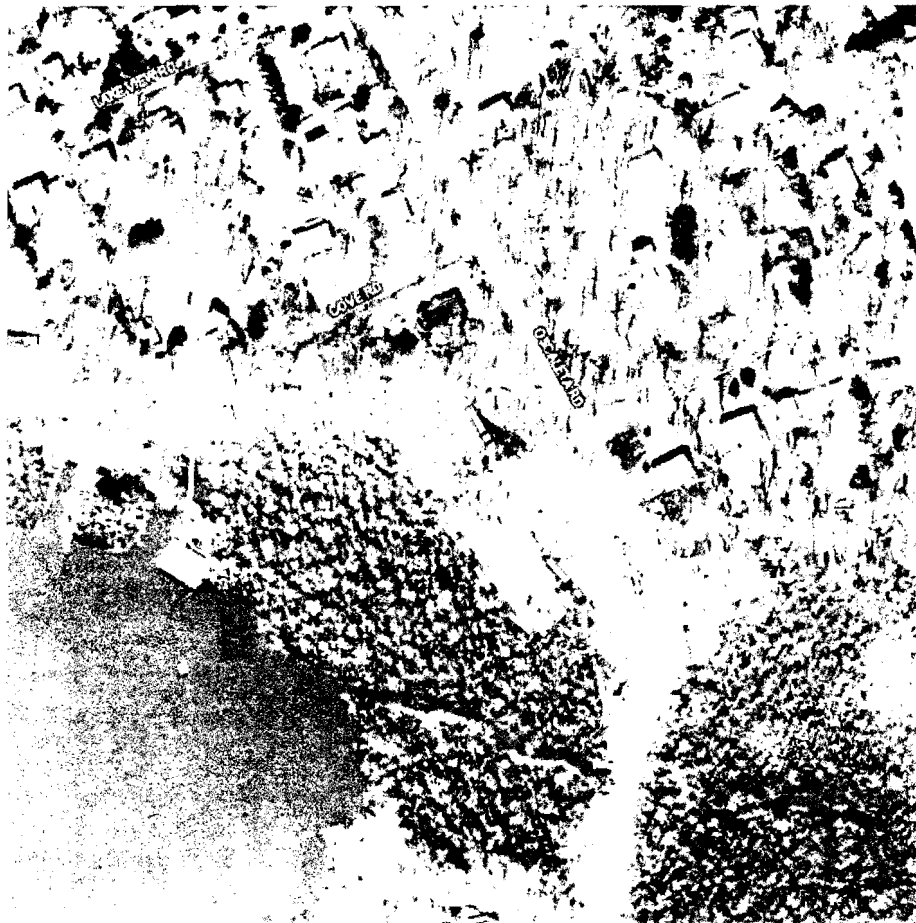
1947



1976

*Note: Dashed yellow line signifies approximate wetland boundary at time of photo.*

Aerial Photos  
 Lot 46, Oscaleta Road  
 Town of Lewisboro, Westchester County  
 Source: Westchester County GIS



2004



2009

Aerial Photos  
 Lot 46, Oscaleta Road  
 Town of Lewisboro, Westchester County  
 Source: Westchester County GIS

*Note: Dashed yellow line signifies approximate wetland boundary at time of photo.*



Photo 1



Photo 2



Photo 3



Photo 4



Photo 5



Photo 6



Photo 7



## WETLAND INVENTORY DATA

**Project Number:** \_\_\_\_\_

**Date:**

Wetland Number: \_\_\_\_\_

Aerial Photo Numbers: 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200

USGS Quadrangle: \_\_\_\_\_

Field Investigators: SA [redacted] & SA [redacted]

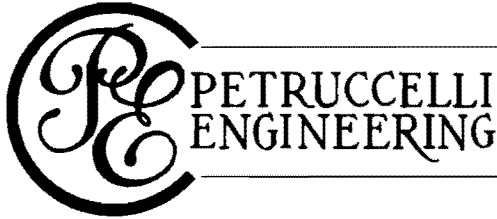
## PART 1 - CHARACTERIZATION of WETLAND

[illegible]

# WETLAND INVENTORY DATA (continued)

## PART 2 - CHARACTERIZATION OF MODEL VARIABLES

LANDSCAPE VARIABLES	Microrelief of Wetland Surface:	Number of Types & Relative Proportions:																						
<b>Size:</b> <input type="checkbox"/> Small (<10 acres) <input type="checkbox"/> Medium (10-100 acres) <input type="checkbox"/> Large (>100 acres) <b>Wetland Juxtaposition:</b> <input type="checkbox"/> Connected Upstream and Downstream <input type="checkbox"/> Only Connected Above <input type="checkbox"/> Only Connected Below <input type="checkbox"/> Other Wetlands Nearby but not Connected <input type="checkbox"/> Wetland Isolated <b>Fire Occurrence and Frequency:</b> <input type="checkbox"/> Natural; Predictable Frequency <input type="checkbox"/> Natural; Sporadic Frequency <input type="checkbox"/> Human-caused; Predictable <input type="checkbox"/> Human-caused; Sporadic <input type="checkbox"/> Rare Event <input type="checkbox"/> No Evidence <b>Regional Scarcity:</b> <input type="checkbox"/> Not Scarce (>5% of total wetland area of region) <input type="checkbox"/> Scarce (<5% of total wetland area of region) <b>Watershed Land Use:</b> <input type="checkbox"/> > 50% urbanized <input type="checkbox"/> 25-50% urbanized <input type="checkbox"/> 0-25% urbanized	<input type="checkbox"/> Pronounced >45 cm <input type="checkbox"/> Well Developed 15-45 cm <input type="checkbox"/> Poorly Developed <15 cm <input type="checkbox"/> Absent <b>Inlet/Outlet Class:</b> <input type="checkbox"/> No Inlet/No Outlet <input type="checkbox"/> No Inlet/Intermittent Outlet <input type="checkbox"/> No Inlet/Perennial Outlet <input type="checkbox"/> Intermittent Inlet/No Outlet <input type="checkbox"/> Intermittent Inlet/Intermittent Outlet <input type="checkbox"/> Intermittent Outlet/Perennial Outlet <input type="checkbox"/> Perennial Inlet/No Outlet <input type="checkbox"/> Perennial Inlet/Intermittent Outlet <input type="checkbox"/> Perennial Inlet/Perennial Outlet <b>Nested Piezometer Data:</b> <input type="checkbox"/> Recharge <input type="checkbox"/> Discharge <input type="checkbox"/> Horizontal Flow <input type="checkbox"/> Not Available <b>Relationship of Wetlands' Substrate Elevation to Regional Piezometric Surface:</b> <input type="checkbox"/> Piez. Surface Above or at Substrate elev. <input type="checkbox"/> Piez. Surface below Substrate elev. <input type="checkbox"/> Not Available <b>Evidence of Sedimentation:</b> <input checked="" type="checkbox"/> No Evidence Observed <input type="checkbox"/> Sediment Observed on Wetland Substrate <input type="checkbox"/> Fluviatile Soils <b>Evidence of Seeps and Springs:</b> <input checked="" type="checkbox"/> No Seeps or Springs <input type="checkbox"/> Seeps Observed <input type="checkbox"/> Perennial Spring <input type="checkbox"/> Intermittent Spring	<b>Number of Types</b> <input type="checkbox"/> Actual # <input type="checkbox"/> 5 <input type="checkbox"/> 4 <input type="checkbox"/> 3 <input type="checkbox"/> 2 <input checked="" type="checkbox"/> 1 <b>Evenness of Distribution</b> <input type="checkbox"/> Even Distribution <input type="checkbox"/> Moderately Even Distribution <input type="checkbox"/> Highly Uneven Distribution <b>Vegetation Density/Dominance:</b> <input type="checkbox"/> Sparse (0-20%) <input type="checkbox"/> Low Density (20-40%) <input checked="" type="checkbox"/> Medium Density (40-60%) <input type="checkbox"/> High Density (60-80%) <input type="checkbox"/> Very High Density (80-100%) <b>Vegetative Interspersion:</b> <input type="checkbox"/> High (small groupings, diverse and interspersed) <input type="checkbox"/> Moderate (broken irregular rings) <input checked="" type="checkbox"/> Low (large patches, concentric rings) <b>Number of Layers and Percent Cover:</b> <table style="width: 100%; border: none;"> <tr> <th style="text-align: left;">Number of Layers</th> <th style="text-align: left;">% Cover</th> </tr> <tr> <td><input type="checkbox"/> 6 or &gt; (actual #)</td> <td><input type="checkbox"/> 1. submergent:</td> </tr> <tr> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 2. floating:</td> </tr> <tr> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 3. moss-lichen:</td> </tr> <tr> <td><input checked="" type="checkbox"/> 3</td> <td><input type="checkbox"/> 4. short herb:</td> </tr> <tr> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 5. tall herb:</td> </tr> <tr> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 6. dwarf shrub:</td> </tr> <tr> <td></td> <td><input type="checkbox"/> 7. short shrub:</td> </tr> <tr> <td></td> <td><input type="checkbox"/> 8. tall shrub:</td> </tr> <tr> <td></td> <td><input type="checkbox"/> 9. sapling:</td> </tr> <tr> <td></td> <td><input type="checkbox"/> 10. tree:</td> </tr> </table> <b>Plant Species Diversity:</b> <input checked="" type="checkbox"/> Low 1-2 plots sampled <input type="checkbox"/> Medium 3-4 plots sampled <input type="checkbox"/> High 5 or more plots sampled <b>Proportion of Animal Food Plants:</b> <input type="checkbox"/> Low (5-25% cover) <input checked="" type="checkbox"/> Medium (25-50% cover) <input type="checkbox"/> High (>50% cover) <b>Cover Distribution:</b> <input type="checkbox"/> Continuous Cover <input type="checkbox"/> Small Scattered Patches <input checked="" type="checkbox"/> 1 or More Large Patches; Parts of Site Open <input type="checkbox"/> Solitary, Scattered Stems <b>Dead Woody Material:</b> <input type="checkbox"/> Abundant (>50 of wetland surface) <input type="checkbox"/> Moderately Abundant (25-50% of surface) <input type="checkbox"/> Low Abundance (0-25% of surface) <b>Interspersion of Cover and Open Water:</b> <input checked="" type="checkbox"/> 26-75% Scattered or Peripheral <input type="checkbox"/> >75% Scattered or Peripheral <input type="checkbox"/> <25% Scattered or Peripheral <input type="checkbox"/> 100% Cover or Open Water <b>Stream Sinuosity:</b> <input type="checkbox"/> Highly Convoluted (index 1.50 or >) <input type="checkbox"/> Moderately Convoluted (index 1.25-1.50) <input type="checkbox"/> Straight/Slightly Irreg. (index) 1.10-1.25 <b>Presence of Islands:</b> <input type="checkbox"/> Several to Many <input type="checkbox"/> One or Few <input checked="" type="checkbox"/> Absent	Number of Layers	% Cover	<input type="checkbox"/> 6 or > (actual #)	<input type="checkbox"/> 1. submergent:	<input type="checkbox"/> 5	<input type="checkbox"/> 2. floating:	<input type="checkbox"/> 4	<input type="checkbox"/> 3. moss-lichen:	<input checked="" type="checkbox"/> 3	<input type="checkbox"/> 4. short herb:	<input type="checkbox"/> 2	<input type="checkbox"/> 5. tall herb:	<input type="checkbox"/> 1	<input type="checkbox"/> 6. dwarf shrub:		<input type="checkbox"/> 7. short shrub:		<input type="checkbox"/> 8. tall shrub:		<input type="checkbox"/> 9. sapling:		<input type="checkbox"/> 10. tree:
Number of Layers	% Cover																							
<input type="checkbox"/> 6 or > (actual #)	<input type="checkbox"/> 1. submergent:																							
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<input checked="" type="checkbox"/> 3	<input type="checkbox"/> 4. short herb:																							
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	<input type="checkbox"/> 7. short shrub:																							
	<input type="checkbox"/> 8. tall shrub:																							
	<input type="checkbox"/> 9. sapling:																							
	<input type="checkbox"/> 10. tree:																							
HYDROLOGIC VARIABLES	SOIL VARIABLES	VEGETATION VARIABLES																						
<b>Surface Water Level Fluctuation of Wetland:</b> <input type="checkbox"/> High Fluctuation <input type="checkbox"/> Low Fluctuation <input type="checkbox"/> Never Inundated <b>Frequency of Overbank Flooding:</b> <input type="checkbox"/> Return Interval > 5 yrs. <input type="checkbox"/> Return Interval 2-5 yrs. <input type="checkbox"/> Return Interval 1-2 yrs. <input type="checkbox"/> No Overbank Flooding <b>pH:</b> <input type="checkbox"/> Acid <5.5 <input type="checkbox"/> Circumneutral 5.5-7.4 <input type="checkbox"/> Alkaline >7.4 <input type="checkbox"/> No Water <b>Surficial Geologic Deposit Under Wetland</b> <input checked="" type="checkbox"/> Low Permeability Stratified Deposits <input type="checkbox"/> High Permeability Stratified Deposits <input type="checkbox"/> Glacial Till <b>Wetland Land Use:</b> <input type="checkbox"/> High Intensity (i.e. agriculture) <input type="checkbox"/> Moderate Intensity (i.e. forestry) <input type="checkbox"/> Low Intensity (i.e. open space) <b>Wetland Water Regime:</b> <input checked="" type="checkbox"/> Wet: Perm Flooded, Intermittently Exposed, Semiperm. Flooded <input type="checkbox"/> Drier: Seasonally Flooded, Temporarily Flooded, Saturated <b>Basin Topographic Gradient:</b> <input type="checkbox"/> High Gradient >2% <input checked="" type="checkbox"/> Low Gradient <2% <b>Degree of Outlet Restriction:</b> <input checked="" type="checkbox"/> Restricted Outflow <input type="checkbox"/> Unrestricted Outflow <input type="checkbox"/> No Outflow <b>Ratio of Wetland Area to Watershed Area:</b> <input checked="" type="checkbox"/> High >10% <input type="checkbox"/> Low <10%	<b>Soil Lacking:</b> <input type="checkbox"/> <b>Histosol:</b> <input type="checkbox"/> Fibric <input type="checkbox"/> Hemic <input type="checkbox"/> Sapric <b>Mineral Hydric Soil:</b> <input type="checkbox"/> Gravelly <input type="checkbox"/> Sandy <input type="checkbox"/> Silty <input type="checkbox"/> Clayey	<b>Vegetation Lacking:</b> <input type="checkbox"/> <b>Dominant Wetland Type:</b> <input type="checkbox"/> Forested - Evergreen - Needle-leaved <input checked="" type="checkbox"/> Forested - Deciduous - Broad-leaved <input type="checkbox"/> Forested - Deciduous - Needle-leaved <input type="checkbox"/> Scrub Shrub - Evergreen - Broad-leaved <input type="checkbox"/> Scrub Shrub - Evergreen - Needle-leaved <input type="checkbox"/> Scrub Shrub - Deciduous - Broad-leaved <input type="checkbox"/> Scrub Shrub - Deciduous - Needle-leaved <input type="checkbox"/> Emergent - Persistent <input type="checkbox"/> Emergent - Non-persistent <input type="checkbox"/> Aquatic Bed																						

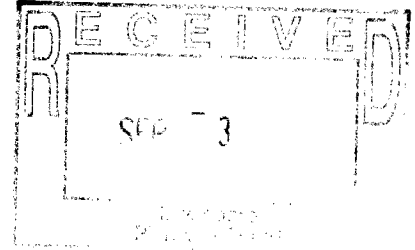


RUDOLPH C. PETRUCCELLI, P.E.  
*Principal*

September 3, 2013

Jermone Kerner, AIA Chairman  
Planning Board  
Town of Lewisboro

RE: Rudolph C. Petrucelli  
Oscaleta Road  
Town of Lewisboro  
Tax Map No. 33-B-1157-46



Dear Mr. Kerner and Members of the Board:

This is in response to the Board's comments at the August 13, 2013 Planning Board Meeting.

1. Photos of the property at different seasons are shown on the attached plan with the number and where the direction the photo was taken. Please note that the photos were taken on November 4, 2008 (Fall), July 12, 2011 (Summer), and April 19, 2012 (Spring), and not all in the same year which shows little change to the property in four (4) years and three (3) seasons.
2. Sections from Oscaleta Road to Lake Waccabuc, which includes the boathouse (east and west) and from Cove Road to Three Lakes Council Property (north and south) are shown on sheet 4 of the plans.
3. The height of the fill in the wetlands has been dropped. The maximum height of fill will be three (3) feet.
4. On August 21, 2013, a letter was sent to Mr. & Mrs. Rosenbaum, the neighbor bordering my north property line, requesting information regarding the drainage pipe from their property discharging stormwater onto my property (copy of which was sent to The Board). As of this date, as in the 2010 letter, I have received no response.

This completes our responses to the comments.

Also attached are revised plans, last revised 8/28/13, and copies of the two lot subdivision plat.

Very truly yours,

**PETRUCCELLI ENGINEERING**



Rudolph C. Petrucelli, P.E., F.NSPE  
Principal

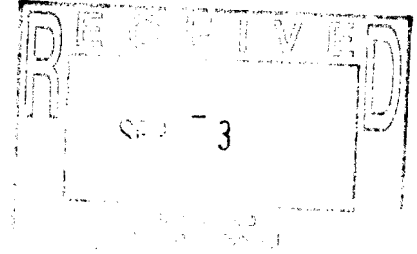


PETRUCELLI  
ENGINEERING

RUDOLPH C. PETRUCELLI  
Principal

**TRANSMITTAL**

**DATE:** *September 3, 2013*



**TO:** *Lisa Pisera, Planning Secretary*  
*Town of Lewisboro Planning Board*  
*20 North Salem Road*  
*Cross River Shopping Center*  
*Cross River, NY 10518*

**PROJECT:** *Wetland Permit / Subdivision Approval*  
*Sheet: 033B, Blk: 11157 Lot: 46*  
*Petrucelli Property*  
*Oscaleta Road*  
*Town of Lewisboro*

*We are sending to you today by Hand Delivery the following:*

*Ten (10) copies of the Letter addressed to Jermone Kerner, AIA Chairman dated 9/3/13*

*Ten (10) copies of the Plan with Photographs of the subject Property showing the Local Wetland taken from different seasons over the years.*

*Ten (10) copies of the Subdivision Plat*

*Ten (10) copies of the Site Development Plan revised August 28, 2013*

*We would like to submit this information for a Public Hearing at the September 17, 2013 Planning Board. If you have any questions or are in need of anything further please do not hesitate to call*

**FROM:**

*Ken Murphy*  
*Kenneth M. Murphy*  
*Assistant Engineer*

**RECEIVED BY:** \_\_\_\_\_

**TO:** Town of Lewisboro Planning Board

**FROM:** Lewisboro Conservation Advisory Council

**SUBJECT:** Petruccelli Wetland Activity Permit  
Oscaleta Road, South Salem  
Sheet 33B, Block 11159, Lot 46

**DATE:** September 10, 2013

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The Conservation Advisory Council (CAC) has, yet again, reviewed the applicant's newest set of plans and accompanying documents putting forth a new, modified plan for the proposed new home on the vacant 0.693 acre property on Oscaleta Road. The CAC notes that our prior memoranda were submitted to the Planning Board on October 17, 2012, February 12, 2013, and April 2, 2013 respectively.

As with our prior submissions, the CAC continues to stand by the points made in those prior memoranda and recommends that the Planning Board again review all three of them, as well as the minutes from the subsequent Planning Board meetings wherein those prior memoranda were discussed.

The latest submission of the modified plan by the applicant has not addressed the concerns continually raised in the CAC's prior memoranda. Accordingly, the CAC, again, stands by those prior issues raised. The CAC feels that simply proposing new plans without addressing the initial issues raised should not suffice.

On the whole, the CAC has not changed its overall opinion of this project. It is a major concern to the CAC, and clearly the surrounding neighbors and other tax payers in the community, that the granting of this wetland activity permit has the potential to set a detrimental precedent for the town in dealing with future applicants seeking to build in specifically restricted areas or may cause significant damage or harm to the future applicant's land as well as to any surrounding land.

It is a concern of the CAC that allowing such action, under these clear facts, will decimate the intent and application of the town's wetlands law.

The CAC would, once again, like to see the applicant specifically address the prior issues raised before setting forth new or additional plans.



**TRANSMITTAL**

**DATE: March 24, 2011**

**TO: Christopher S. Mallery, PhD**  
**Chief, Western Permits Section**  
**Department of the Army**  
**New York District, Corps of Engineers**  
**Jacob K. Javits Federal Building**  
**New York, N.Y. 10278-0090**

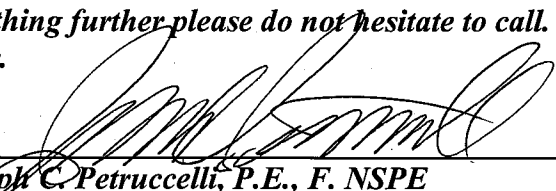
**PROJECT: NYCDEP Variance Application**  
**Sheet: 033B, Blk: 11157 Lot: 46**  
**Oscaleta Road**  
**Town of Lewisboro**  
**DEP Log#2008-CR-0539-VA.1**  
**DEC ID# 3-5530-00163/00001**

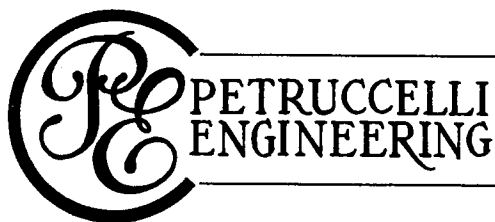
**The information below is submitted in response to the NYCDEP Review Memo dated March 17, 2011**

**We recently received a letter from NYCDEP requesting that the Army Corps of Engineers review the attached map to determine if the local wetlands on the above referenced property are federally located. One copy of the site plan is attached.**

**If you have any questions or are in need of anything further please do not hesitate to call.  
Thank you so much for your help in this matter.**

**FROM:**

  
**Rudolph C. Petrucelli, P.E., F. NSPE**



**PETRUCCELLI  
ENGINEERING**

**RUDOLPH C. PETRUCCELLI, P.E.**  
*Principal*

July 26, 2011

Ahmed Soliam, Project Manager  
Department of the Army  
New York District, Corps of Engineers  
Jacob K. Javits Federal Building  
New York, N.Y. 10278-0090

Re: Rudolph C. Petrucelli  
USACE Permit Application  
Section: 33-B, Block: 11157, Lot: 46  
Oscaleta Road, Town of Lewisboro  
Permit Application File No. NAN-2011-00377-ESO

Dear Mr. Soliam:

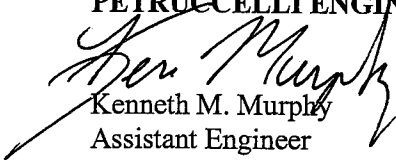
The attached information is being submitted as per your request and based on our discussions at our July 21, 2011 joint site inspection. The new one family residence and all other associated construction activity will be located outside the regulated waters and wetlands of the United States. The design of the project has been engineered to minimize the impact of the wetland to the extent practicable based on the precise identification of the regulated wetland boundary. The site layout has also been designed to comply with the code of Federal Regulations as required by the Army Corps of Engineers.

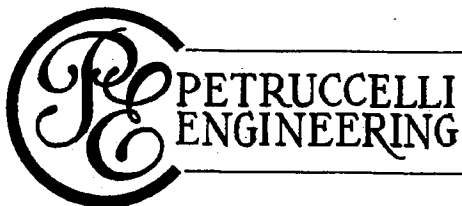
We would appreciate receiving the required Department of Army permit as soon as reasonably possible so that we can continue to pursue a WCDH permit for the well and septic system, and a wetland permit from the Town of Lewisboro.

If you have any questions or require additional information please do not hesitate to contact me.

Thanks,  
Very truly yours,

**PETRUCCELLI ENGINEERING**

  
Kenneth M. Murphy  
Assistant Engineer



PETRUCELLI  
ENGINEERING

RUDOLPH C. PETRUCELLI, P.E.  
*Principal*

October 24, 2012

Department of the Army  
New York District, Corps of Engineers  
Jacob K. Javits Federal Building  
New York, N.Y. 10278-0090

Re: Permit Application File No. NAN-2011-00377-ESO  
Rudolph C. Petrucelli  
USACE Permit Application  
Section: 33-B, Block: 11157, Lot: 46  
Oscaleta Road, Town of Lewisboro

Dear Sir or Madam:

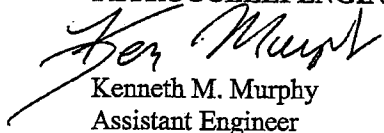
The attached information is being submitted as per your request and based on our discussions with Ahmed Soliam at our July 21, 2011 joint site inspection. The proposed one family residence and all other associated construction activity will be located outside the regulated waters and wetlands of the United States. The design of the project has been engineered to minimize the impact of the NYSDEC wetland adjacent area to the extent practicable based on the precise identification of the regulated wetland boundary.

Please review the attached information and confirm that the local wetland centered on the above referenced property is not federally regulated. The Town of Lewisboro requires a letter from the USACE stating that no permit is required from your department since no disturbance to the NYSDEC wetland area is proposed. We would appreciate receiving this letter as soon as reasonably possible so that we can continue to pursue a WCDH permit for the well and septic system, and a wetland permit from the Town of Lewisboro.

If you have any questions or require additional information please do not hesitate to contact me.

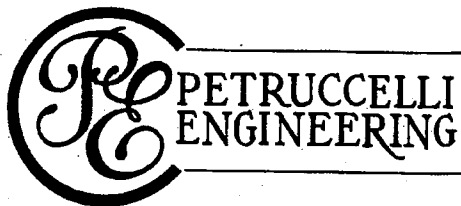
Thanks,  
Very truly yours,

PETRUCELLI ENGINEERING



Kenneth M. Murphy  
Assistant Engineer





**PETRUCELLI  
ENGINEERING**

**RUDOLPH C. PETRUCELLI, P.E.**  
*Principal*

December 20, 2012

Michael Scarano, P.E.  
US Army Corps of Engineers  
New York District  
26 Federal Plaza, Room 1937  
New York, N.Y. 10278-0090

Re: USACE Permit Application File No. NAN-2011-00377-ESO  
Rudolph C. Petrucelli Property  
Section: 33-B, Block: 11157, Lot: 46  
Oscaleta Road, Town of Lewisboro

Dear Mr. Scarano:

The attached information is being submitted as per your request for the USACE to perform a preliminary determination of the project site. The proposed action includes the approval to construct a new one family residence on an undeveloped 0.693 acre parcel of land in the Town of Lewisboro, Westchester County, New York. The rear portion of the site extends into a DEC wetland that is a tributary to Lake Waccabuc. The site also contains a separate local wetland not federally regulated on the center portion of the property, developed by runoff from an off site drainage pipe.

All proposed construction activity will be located outside the USACE regulated waters and no disturbance to the NYSDEC wetland boundary is proposed. The Town of Lewisboro has requested that we submit a "no permit required letter" from the USACE based on that no jurisdiction for the proposed building area is determined.

Please review the attached information as soon as reasonably possible so that we can continue to pursue a permit for the well and septic system from the NYCDEP and WCDH, along with a wetland permit from the Town of Lewisboro

If you have any questions or require additional information please do not hesitate to contact me.

Thanks,  
Very truly yours,

**PETRUCELLI ENGINEERING**

  
Rudolph C. Petrucelli, P.E., F.NYSPE  
Principal



**DEPARTMENT OF THE ARMY**  
NEW YORK DISTRICT, CORPS OF ENGINEERS  
JACOB K. JAVITS FEDERAL BUILDING  
NEW YORK, N.Y. 10278-0090

JAN 30 2013

REPLY TO  
ATTENTION OF:

Regulatory Branch

Subject: Permit Application File Number NAN-2011-00377  
by Petruccelli, Rudolph

Rudolph Petruccelli  
21 Halsey Place  
Valhalla, New York 10595

Dear Mr. Petruccelli:

This office has received your application for a Department of the Army (DA) permit dated December 20, 2012, for in-water construction activities into waters of the United States.

Please be advised we have reviewed the Joint Application, and based solely upon the information provided, it appears that a Department of the Army permit is not required for your proposal.

The Department of the Army regulates construction activities in navigable waterways and discharges of dredged or fill material into waters of the United States, including inland and coastal wetlands. If your proposal would involve such work, and has not been portrayed as such in your Joint Application, you should contact this office immediately so that a project-specific determination can be made as to whether a Department of the Army permit will be required.

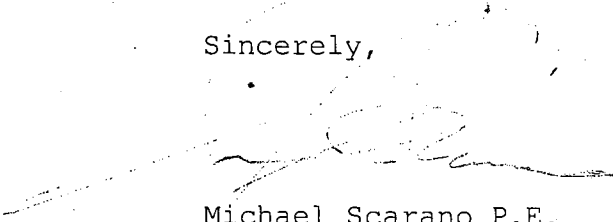
Please note that this determination does not eliminate the need to obtain any other Federal, State or local authorization required by law for the proposed work illustrated in the attached plans, including any required permit or Water Quality Certification from the New York State Department of Environmental Conservation (NYSDEC) or a Coastal Zone Management consistency certification from the New York State Department of State (NYSDOS).

So that we may serve you better, please complete our Customer Service Survey located at:  
<http://per2.nwp.usace.army.mil/survey.html>

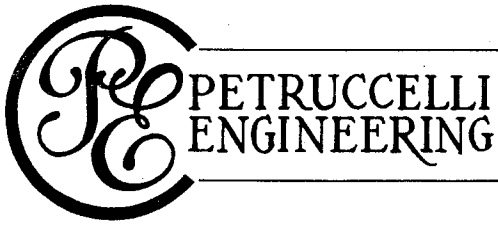
A copy of this letter is being provided to the NYSDEC and the NYSDOS.

Submit any inquiries to Mellissa Offoha, Project Manager, at 917-790-8082

Sincerely,

A handwritten signature in dark ink, appearing to read "Michael Scarano", is written over a horizontal line.

Michael Scarano P.E.  
Deputy Chief, Regulatory Branch



**PETRUCELLI  
ENGINEERING**

**RUDOLPH C. PETRUCELLI, P.E.**  
*Principal*

June 8, 2009

Margaret Duke, Regional Permit Administrator  
New York State Department of Environmental Conservation  
Division of Environmental Permits, Region 3  
21 South Putt Corners Road  
New Paltz, NY 12561-1696

Re: Rudolph C. Petrucelli  
Freshwater Wetlands Permit Application  
Application ID: 3-5530-00163/00001  
Oscaleta Road, Town of Lewisboro  
Log #14212-SS (Joint Review)

Dear Ms. Duke:

Please find enclosed:

- 1.) Four sets of the project Site Plan dated 12/22/05 and revised 6/5/09
- 2.) Engineering Report dated 6/5/09 describing the proposed project
- 3.) Updated Survey dated 8/9/07 with wetlands delineated by NYSDEC
- 4.) Drainage Calculations dated 6/5/09 for House and Driveway Areas

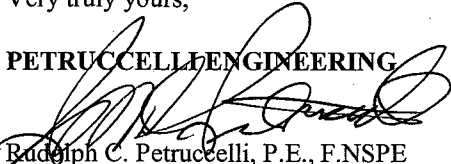
The above information has been revised and is being submitted for your review based on the flagged DEC wetland boundary line delineated by Heather Gierloff NYSDEC on August 7, 2007. The revised site plan was modified to require the proposed septic system to be constructed in the original R.O.B. gravel area within the DEC wetland 100 ft. buffer. The new one family residence and drilled well will be located outside the buffer line. The design of the project has been engineered to minimize the impact of the wetland to the extent practicable based on the precise identification of the regulated wetland boundary and its 100 foot adjacent area. The site layout has also been designed to comply with restrictive distances to wells and septic systems as required by the Westchester County Health Department.

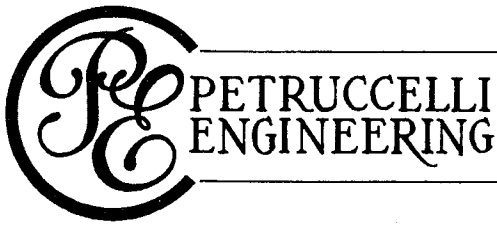
We would appreciate receiving your wetlands permit so that we can continue to pursue a WCDH permit for the well and septic system, and a wetland permit from the Town of Lewisboro.

If you have any questions please do not hesitate to contact me.

Thanks,  
Very truly yours,

**PETRUCELLI ENGINEERING**

  
Rudolph C. Petrucelli, P.E., F.NSPE  
Principal



RUDOLPH C. PETRUCCELLI, P.E.  
*Principal*

October 7, 2009

Rebecca S. Crist  
New York State Department of Environmental Conservation  
Division of Environmental Permits, Region 3  
21 South Putt Corners Road  
New Paltz, NY 12561-1696

Re: Rudolph C. Petrucelli  
Freshwater Wetlands Permit Application  
Application ID: 3-5530-00163/00001  
Oscaleta Road, Town of Lewisboro

Dear Ms. Crist:

Please find enclosed:

- 1.) One copy of the existing conditions plan for the project Site dated 10/05/09
- 2.) \$50 check for the application fee
- 3.) Four copies of the Joint Application for Permit

The above information is being submitted to the DEC to issue a permit to perform temporary test pit borings on the project site and within the 100 ft. adjacent area to the New York State freshwater wetland. The flagged DEC wetland boundary line on the property was delineated by Heather Gierloff NYSDEC on August 7, 2007. The proposed test pits will only be used for soil investigations for the design of an onsite wastewater treatment system to be constructed in a suitable area on-site to treat domestic wastewater on a daily bases for a new residence. The proposed locations of the test holes are shown on the attached plan and all work will be performed as per the requirements of the Westchester County Health Department permit approval process.

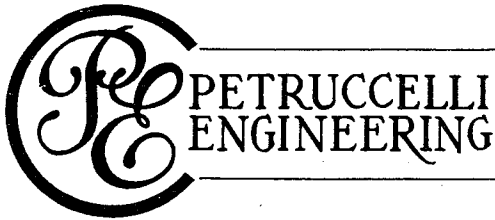
The machine and equipment only used necessary to dig test pits will have adequate access from Oscaleta Road through the site to the proposed septic area. All work will be performed within the confines of the project property and will not require any tree removal or any crossing of the wetland areas. All deep test pits will be dug to the required maximum 7 ft. depth and will be filled in and restored to its natural condition immediately after the design engineer and the assigned county official have performed their inspection.

Based on the precise identification of the regulated wetland boundary all work performed within the 100 ft. setback will be done at a minimum disturbance to the protected area. We would appreciate receiving your permit so that we can continue to pursue a WCDH permit for the well and septic system, and a wetland permit from the Town of Lewisboro. If you have any questions please do not hesitate to contact me.

Thanks,  
Very truly yours,

**PETRUCCELLI ENGINEERING**

Rudolph C. Petrucelli, P.E., F.NSPE  
Principal



**PETRUCELLI  
ENGINEERING**

RUDOLPH C. PETRUCELLI, P.E.  
*Principal*

August 24, 2010

Rebecca S. Crist  
New York State Department of Environmental Conservation  
Division of Environmental Permits, Region 3  
21 South Putt Corners Road  
New Paltz, NY 12561-1620

Re: Rudolph C. Petrucelli  
Freshwater Wetlands Permit Application  
Application ID: 3-5530-00163/00001  
DEC Permit ID: 3-5530-00163/00002  
Oscaleta Road, Town of Lewisboro

Dear Ms. Crist:


Please find enclosed four copies of the revised project site plan dated August 24, 2010. The plan enclosed has been updated based on our findings at the July 26, 2010 joint site inspection with the Westchester County Health Department to perform test pit borings. In order to mitigate and reduce the amount of solids entering the disposal fields and to filter the effluent, NYCDEP has requested an increase in the tank size of the septic tank from 1250 gallons to 1500 gallons and to install a filter at the outlet of the tank. The plan has been revised to address their comments and concerns.

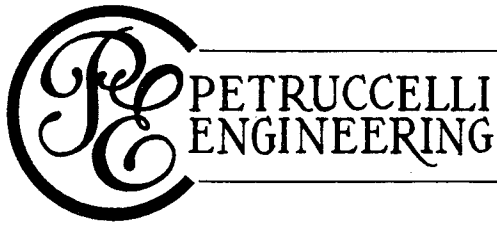
Based on the precise identification of the regulated wetland boundary all work performed within the 100 ft. setback will be done at a minimum disturbance to protect the area. We would appreciate receiving your permit so that we can continue to pursue a WCDH permit for the well and septic system, and a wetland permit from the Town of Lewisboro.

If you have any questions or require additional information, please do not hesitate to contact me.

Very truly yours,

**PETRUCELLI ENGINEERING**

  
Rudolph C. Petrucelli, P.E., F.NSPE  
Principal



PETRUCELLI  
ENGINEERING

RUDOLPH C. PETRUCELLI, P.E.  
*Principal*

February 2, 2011

Rebecca S. Crist  
New York State Department of Environmental Conservation  
Division of Environmental Permits, Region 3  
21 South Putt Corners Road  
New Paltz, NY 12561-1696

Re: Rudolph C. Petrucelli  
Freshwater Wetlands Permit Application  
Section: 33-B, Block: 11157, Lot: 46  
Oscaleta Road, Town of Lewisboro  
DEC Application No. 3-5530-00163/00001

Dear Ms. Crist:

Please find enclosed two (2) copies of the project Site Plan revised February 1, 2011 showing the proposed Split Rail Fence along the western limit of disturbance to mark the limitation of landscaping, mowing, ect.

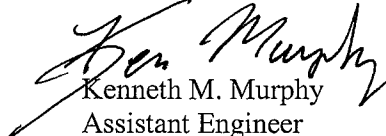
Also included with the revised plans are the necessary supporting documents required in your November 29, 2010 memo of the Notice of Incomplete Application.

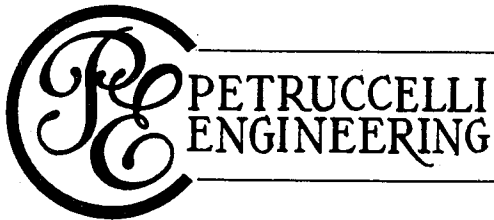
We would appreciate receiving your wetlands permit so that we can continue to pursue a Westchester County Health Department permit for the well and septic system.

If you have any questions please do not hesitate to contact me.

Thanks,  
Very truly yours,

PETRUCELLI ENGINEERING

  
Kenneth M. Murphy  
Assistant Engineer



RUDOLPH C. PETRUCCELLI, P.E.  
*Principal*

April 26, 2011

Rebecca S. Crist  
NYS Department of Environmental Conservation  
Division of Environmental Conservation  
21 South Putt Corners Road  
New Paltz, NY 12561-1620

RE: Petrucelli Property  
Oscaleta Road  
Town of Lewisboro, NY  
Application ID: 3-5530-00163/00001  
Permit: Article 24 Freshwater Wetlands

Dear Ms. Crist:

This is in response to the NYCDEP's conclusions and recommendations of the March 17, 2011 memo from Michael L. Usai, Supervisor Ecological Research and Assessment Group Natural Resources Management Section.

- The application does remain incomplete, however as stated in their January 18, 2011 letter DEP is of the opinion that given the fulfillment of all other administrative requirements, the application to DEP for a variance allowing construction of the SSTs within the NYSDEC wetland buffer is capable of being approved, as is the proposed design of the SSTs. (see attached letter)
- The stormwater infiltrations can not be relocated outside a 100 ft. setback from the absorption area without encroaching within the 10 ft. minimum property line setbacks. The current proposed location is outside the allowed Westchester County Health Department 50 ft. minimum setback and is actually located 78 ft. from the primary absorption area.
- The 100 ft. Adjacent Area to the DEP flagged watercourse is shown on the site plans.
- The site plan has been updated to show the proposed mitigation landscaping and provide specific planting and specifications. The proposed plants/shrubs/trees are all native, non-invasive species.
- The stone energy dissipater is for the discharge of any water from footing drains only and must be at elevation 194.0. Little water will be discharged thru the pipe to the wetland.



property will be controlled by leader drains, curbs, trench drains and piped to the infiltration system. The slope and septic area will be planted with trees, shrubs and grass, reducing the amount of runoff tremendously to the property south of mine. Therefore, we have eliminated the grass swale. (See revised drawings)

-The site plan has been revised to indicate locations of the staging/stock pile areas and the construction sequence notes.

-Erosion, sediment control and details are shown on the site plan

-The site plan has been revised to show the new split rail fence within the proposed limit of disturbance.

-An application has been received by the Army Corps of Engineers from our office requesting their determination as to whether the wetland is federally regulated.

Very truly yours,

**PETRUCCELLI ENGINEERING**



Rudolph C. Petruccelli, P.E., F.NYSPE  
Principal



## PERMIT

### Under the Environmental Conservation Law (ECL)

#### Permittee and Facility Information

**Permit Issued To:**

RUDOLPH C PETRUCCELLI  
PETRUCCELLI ENGINEERING

392 COLUMBUS AVE  
VALHALLA, NY 10595  
(914) 948-3629

**Facility:**

PETRUCCELLI PROPERTY  
OSCALETA RD - W SIDE 2600 FT N OF  
BENEDICT RD  
LEWISBORO, NY

**Facility Location:** in LEWISBORO in WESTCHESTER COUNTY

**Facility Principal Reference Point:** NYTM-E: 619.569 NYTM-N: 4572.942

Latitude: 41°17'56.7" Longitude: 74°34'18.6"

**Authorized Activity:** Construction of a new single-family residence with septic system in the adjacent area of NYS freshwater wetland L-13, Class 2. Approximately 0.22 acre of adjacent area will be disturbed for the placement of fill and construction of a raised-bed septic. The house and all appurtenant structures will be outside the regulated area.

#### Permit Authorizations

**Freshwater Wetlands - Under Article 24**

Permit ID 3-5530-00163/00001

New Permit

Effective Date: 6/17/2011

Expiration Date: 12/31/2016

#### NYSDEC Approval

By acceptance of this permit, the permittee agrees that the permit is contingent upon strict compliance with the ECL, all applicable regulations, and all conditions included as part of this permit.

Permit Administrator: ALEXANDER F CIESLUK, JR, Regional Permit Administrator

Address: NYSDEC REGION 3 HEADQUARTERS  
21 SOUTH PUTT CORNERS RD  
NEW PALTZ, NY 12561 -1620

Authorized Signature:

*Alexander F. Ciesluk, Jr.*

Date 6/17/2011



### Distribution List

Town of Lewisboro Planning Board  
Westchester County Dept of Health  
Michael Usai, NYC DEP – Valhalla  
Danny Shedlo, NYC DEP – Valhalla via email  
James Pinheiro, DEC Bur of Habitat via email

### Permit Components

NATURAL RESOURCE PERMIT CONDITIONS

GENERAL CONDITIONS, APPLY TO ALL AUTHORIZED PERMITS

NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

### NATURAL RESOURCE PERMIT CONDITIONS - Apply to the Following Permits: FRESHWATER WETLANDS

**1. Conformance With Plans** All activities authorized by this permit must be in strict conformance with the approved plans submitted by the applicant or applicant's agent as part of the permit application. Such approved plans were prepared by Petruccelli Engineering; titled "Rudolph C. Petruccelli Oscaleta Road", consisting of Sheets 1, 2, 3, and 4; dated 12/21/2009 and last revised 04/26/2011.

**2. Deed Covenant for Individual Lot** This property contains portions of New York State regulated Freshwater Wetland L-13 and/or its regulated 100 foot adjacent area. Accordingly, the deed for this property shall be amended to contain the following notice:

"This property contains New York State regulated freshwater wetlands and/or regulated 100 foot adjacent area. For as long as any portion of the property described in this deed is subject to regulation under Article 24 (the Freshwater Wetlands Act) of the Environmental Conservation Law (ECL) of the State of New York, there shall be no construction, grading, filling, excavating, clearing or other regulated activity as defined by Article 24 of the ECL on this property within the wetland area or its 100 foot adjacent areas at any time without having first secured the necessary permission and permit required pursuant to the above noted Article 24 from the NYS Department of Environmental Conservation (DEC). This restriction shall bind the Grantees, their successors and assigns and shall be expressly set forth in all subsequent deeds to this property."

By April 1, 2012, the permittee shall file with the real property records of the County Clerk's Office this deed notice revision. The permittee shall, within two weeks following the filing of the deed notice revision, submit proof of filing from the County Office showing the Liber and page number at which the



deed notice revision was filed and the date of filing to

Regional Permit Administrator  
NYSDEC REGION 3 HEADQUARTERS  
21 SOUTH PUTT CORNERS RD  
NEW PALTZ, NY 12561 -1620

to document compliance with this condition.

**3. Post Permit Sign** The permit sign enclosed with this permit shall be posted in a conspicuous location on the worksite and adequately protected from the weather.

**4. Notice of Intent to Commence Work** The permittee shall submit a Notice of Intent to Commence Work to James Pinheiro, at [jmpinhei@gw.dec.state.ny.us](mailto:jmpinhei@gw.dec.state.ny.us) at least 48 hours in advance of the time of commencement.

**5. No Wetland Disturbance** No disturbance to the wetland under the jurisdiction of NYS DEC is authorized.

**6. Install Erosion Controls** Before any soil is disturbed on the subject site, the permittee shall install erosion and sedimentation controls which are adequate to prevent erosion and sedimentation off-site. Such controls shall be maintained until the unpaved portions of subject site, if any, are stabilized by a self-sustaining cover of vegetation that is adequate to prevent erosion and sedimentation on and off such site. Before such controls are removed, the permittee shall remove all sediment that has accumulated at such controls.

**7. Precautions Against Contamination of Waters** All necessary precautions shall be taken to preclude contamination of any wetland or waterway by suspended solids, sediments, fuels, solvents, lubricants, epoxy coatings, paints, concrete, leachate or any other environmentally deleterious materials associated with the project.

**8. State May Order Removal or Alteration of Work** If future operations by the State of New York require an alteration in the position of the structure or work herein authorized, or if, in the opinion of the Department of Environmental Conservation it shall cause unreasonable obstruction to the free navigation of said waters or flood flows or endanger the health, safety or welfare of the people of the State, or cause loss or destruction of the natural resources of the State, the owner may be ordered by the Department to remove or alter the structural work, obstructions, or hazards caused thereby without expense to the State, and if, upon the expiration or revocation of this permit, the structure, fill, excavation, or other modification of the watercourse hereby authorized shall not be completed, the owners, shall, without expense to the State, and to such extent and in such time and manner as the Department of Environmental Conservation may require, remove all or any portion of the uncompleted structure or fill and restore to its former condition the navigable and flood capacity of the watercourse. No claim shall be made against the State of New York on account of any such removal or alteration.

**9. State May Require Site Restoration** If upon the expiration or revocation of this permit, the project hereby authorized has not been completed, the applicant shall, without expense to the State, and to such extent and in such time and manner as the Department of Environmental Conservation may require, remove all or any portion of the uncompleted structure or fill and restore the site to its former condition. No claim shall be made against the State of New York on account of any such removal or alteration.



**10. State Not Liable for Damage** The State of New York shall in no case be liable for any damage or injury to the structure or work herein authorized which may be caused by or result from future operations undertaken by the State for the conservation or improvement of navigation, or for other purposes, and no claim or right to compensation shall accrue from any such damage.

**GENERAL CONDITIONS - Apply to ALL Authorized Permits:**

**1. Facility Inspection by The Department** The permitted site or facility, including relevant records, is subject to inspection at reasonable hours and intervals by an authorized representative of the Department of Environmental Conservation (the Department) to determine whether the permittee is complying with this permit and the ECL. Such representative may order the work suspended pursuant to ECL 71- 0301 and SAPA 401(3).

The permittee shall provide a person to accompany the Department's representative during an inspection to the permit area when requested by the Department.

A copy of this permit, including all referenced maps, drawings and special conditions, must be available for inspection by the Department at all times at the project site or facility. Failure to produce a copy of the permit upon request by a Department representative is a violation of this permit.

**2. Relationship of this Permit to Other Department Orders and Determinations** Unless expressly provided for by the Department, issuance of this permit does not modify, supersede or rescind any order or determination previously issued by the Department or any of the terms, conditions or requirements contained in such order or determination.

**3. Applications For Permit Renewals, Modifications or Transfers** The permittee must submit a separate written application to the Department for permit renewal, modification or transfer of this permit. Such application must include any forms or supplemental information the Department requires. Any renewal, modification or transfer granted by the Department must be in writing. Submission of applications for permit renewal, modification or transfer are to be submitted to:

Regional Permit Administrator  
NYSDEC REGION 3 HEADQUARTERS  
21 SOUTH PUTT CORNERS RD  
NEW PALTZ, NY12561 -1620

**4. Submission of Renewal Application** The permittee must submit a renewal application at least 30 days before permit expiration for the following permit authorizations: Freshwater Wetlands.

**5. Permit Modifications, Suspensions and Revocations by the Department** The Department reserves the right to modify, suspend or revoke this permit. The grounds for modification, suspension or revocation include:

- a. materially false or inaccurate statements in the permit application or supporting papers;





- b. failure by the permittee to comply with any terms or conditions of the permit;
- c. exceeding the scope of the project as described in the permit application;
- d. newly discovered material information or a material change in environmental conditions, relevant technology or applicable law or regulations since the issuance of the existing permit;
- e. noncompliance with previously issued permit conditions, orders of the commissioner, any provisions of the Environmental Conservation Law or regulations of the Department related to the permitted activity.

**6. Permit Transfer** Permits are transferrable unless specifically prohibited by statute, regulation or another permit condition. Applications for permit transfer should be submitted prior to actual transfer of ownership.

### NOTIFICATION OF OTHER PERMITTEE OBLIGATIONS

#### **Item A: Permittee Accepts Legal Responsibility and Agrees to Indemnification**

The permittee, excepting state or federal agencies, expressly agrees to indemnify and hold harmless the Department of Environmental Conservation of the State of New York, its representatives, employees, and agents ("DEC") for all claims, suits, actions, and damages, to the extent attributable to the permittee's acts or omissions in connection with the permittee's undertaking of activities in connection with, or operation and maintenance of, the facility or facilities authorized by the permit whether in compliance or not in compliance with the terms and conditions of the permit. This indemnification does not extend to any claims, suits, actions, or damages to the extent attributable to DEC's own negligent or intentional acts or omissions, or to any claims, suits, or actions naming the DEC and arising under Article 78 of the New York Civil Practice Laws and Rules or any citizen suit or civil rights provision under federal or state laws.

#### **Item B: Permittee's Contractors to Comply with Permit**

The permittee is responsible for informing its independent contractors, employees, agents and assigns of their responsibility to comply with this permit, including all special conditions while acting as the permittee's agent with respect to the permitted activities, and such persons shall be subject to the same sanctions for violations of the Environmental Conservation Law as those prescribed for the permittee.

#### **Item C: Permittee Responsible for Obtaining Other Required Permits**

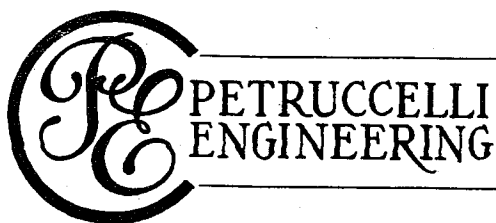
The permittee is responsible for obtaining any other permits, approvals, lands, easements and rights-of-way that may be required to carry out the activities that are authorized by this permit.

#### **Item D: No Right to Trespass or Interfere with Riparian Rights**

This permit does not convey to the permittee any right to trespass upon the lands or interfere with the riparian rights of others in order to perform the permitted work nor does it authorize the impairment of any rights, title, or interest in real or personal property held or vested in a person not a party to the permit.



**Item E: SEQR Type II Action** Under the State Environmental Quality Review Act (SEQR), this project has been determined to be a Type II Action and therefore is not subject to further procedures under this law.



RUDOLPH C. PETRUCCELLI, P.E.  
*Principal*

May 17, 2010

Danny Shedlo, P.E.  
Civil Engineer II  
NYC Environmental Protection  
465 Columbus Avenue  
Valhalla, NY 10595-1336

RE: Petrucelli Property  
Proposed Residence  
Section 33-B, Block 11157, Lot 46  
Oscaleta Road  
Town of Lewisboro

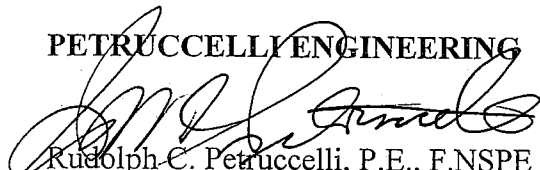
Dear Mr. Shedlo:

This is to request a variance from NYCDEP for the construction of a one family residence on the above referenced property. I have owned the property and paid taxes on it since 1982. I purchased the property prior to NYSDEC mapping the wetlands on the property, which was in 1987 (see attached letters dated 9/23/86, 1/16/87, 10/7/87). The small town wetlands located on the property was created by the Owners of the house on the corner of Cove Road and Oscaleta Road when they illegally piped their drainage onto my property (see attached topographic survey dated April 2, 1982 which I had commissioned and NYSDEC used to delineate the wetlands). You will note that over the past 28 years, the Town wetland has gotten bigger due to the illegal dumping of stormwater on my property.

This is a legal lot, created prior to any wetlands ordinances and laws. Denying me permission to build on the property would be a financial hardship. This property was purchased to be my retirement home or retirement income.

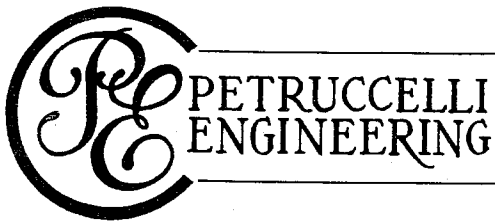
Very truly yours,

**PETRUCCELLI ENGINEERING**



Rudolph C. Petrucelli, P.E., F.NSPE  
Principal





RUDOLPH C. PETRUCCELLI, P.E.  
*Principal*

August 24, 2010

Danny Shedlo, P.E.  
Civil Engineer III  
New York City Department of Environmental Protection  
465 Columbus Avenue  
Valhalla, N.Y. 10595-1336

Re: Rudolph C. Petrucelli  
NYCDEP Variance Application  
DEP Log #2008-CR-0539-VA.1  
Oscaleta Road  
Town of Lewisboro

Dear Mr. Shedlo:

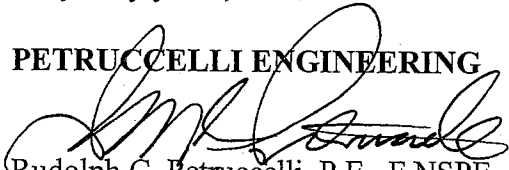
Please find enclosed four copies of the revised project site plan dated August 24, 2010. The plan enclosed has been updated based on our findings at the July 26, 2010 joint site inspection with the Westchester County Health Department to perform test pit borings. The plan has also been revised necessary to address the comments and concerns of your June 18, 2010 review memo and our ensuing phone call discussions, which includes increasing the size of the septic tank from 1250 gallons to 1500 gallons and to install a filter system at the outlet of the tank to filter the effluent.

Based on the precise identification of the regulated wetland boundary all work performed within the 100 ft. setback will be done at a minimum disturbance to protect the area. We would appreciate receiving your variance so that we can continue to pursue a WCDH permit for the well and septic system, and a wetland permit from the Town of Lewisboro.

If you have any questions or require additional information, please do not hesitate to contact me.

Very truly yours,

**PETRUCCELLI ENGINEERING**

  
Rudolph C. Petrucelli, P.E., F.NSPE  
Principal



Environmental  
Protection

October 14, 2010

Caswell F. Holloway  
Commissioner

Paul V. Rush, P.E.  
Deputy Commissioner  
Bureau of Water Supply  
prush@dep.nyc.gov

165 Columbus Avenue  
Valhalla, NY 10595-1336  
T: (845) 340-7800  
F: (845) 334-7175

Mr. Rudolph C. Petruccelli, P.E.  
Petruccelli Engineering  
392 Columbus Avenue  
Valhalla, New York 10595

Re: Petruccelli Residence - **VARIANCE APPLICATION**  
Oscaleta Road  
Tax Map No. 33-B-11157-46  
Cross River Reservoir Drainage Basin  
DEP Log #2003-CR-0958-VA.1

Dear Mr. Petruccelli:

The New York City Department of Environmental Protection (the Department) has determined that the above captioned application, received by the Department on May 18, 2010, with additional information received on September 13, 2010, is still **incomplete**.

While the submitted information on required mitigation renders that element of the application complete, the information submitted concerning the other regulatory approvals required for the proposed residence is incomplete and raises additional issues. The following issues must be fully resolved before the Department can deem the application complete:

1. Provide a certification from the Town of Lewisboro that all requirements for subdivision approval for the subject lot have been met.
2. Provide the status of all other applications for regulatory approvals for the proposed activity. This includes the status of any Town wetland permits as well as the NYSDEC wetland permits.

The Department will not commence review of the application without information indicating that all other permits and approvals required for the residence have been or can be obtained, and that the regulatory process for such permits is not likely to result in a re-configuration of the site design.

Mr. Rudolph C. Petruccelli, P.E.  
October 14, 2010  
Page Two

The review of your application will not commence until the Department receives the requested information and determines that the application is complete. The Department will notify you within 10 days of its receipt of the requested information as to the completeness of your application. Please be advised that failure to submit information to the Department or to follow the Department procedures is sufficient grounds to deny variance approval, pursuant to Section 18-23(b)(3). Please forward the requested information to the undersigned, at 465 Columbus Avenue, Valhalla, New York 10595.

If you have any questions, please contact the undersigned at (914) 742-2055.

Sincerely,



Danny Shedlo, P.E.  
Wastewater Design Review  
Regulatory & Engineering Programs

c: Town of Lewisboro Planning Board  
Melissa Siegel, NYCDEP Legal  
Hilary Meltzer, NYC Corporation Counsel  
Lou Carrea, P.E., WCDOH



**Environmental  
Protection**

*Caswell F. Holloway*  
Commissioner

**Paul V. Rush, P.E.**  
Deputy Commissioner  
Bureau of Water Supply  
prush@dep.nyc.gov

465 Columbus Avenue  
Valhalla, NY 10595-1336  
T: (845) 340-7800  
F: (845) 334-7175

January 18, 2011

Ms. Rebecca S. Crist  
NYSDEC Region 3 Headquarters  
21 South Putt Corners Rd  
New Paltz, NY 12561

Re: Petruccelli Residence - **VARIANCE APPLICATION**  
Oscaleta Road  
(T) Lewisboro, Westchester County  
Tax Map No. 33-B-11157-46  
Cross River Reservoir Drainage Basin  
DEP Log # 2003-CR-0958-VA.1

Dear Ms. Crist:

The New York City Department of Environmental Protection (DEP) has been copied on a Notice of Incomplete Application from the New York State Department of Conservation (NYSDEC) requesting confirmation as to the feasibility of the subsurface sewage treatment system (SSTS) proposed for the property referenced above. Because DEP is participating in the SSTS review under "joint review" procedures, a final determination for the construction of the proposed SSTS must be issued by Westchester County Department of Health (WCHD). The determination cannot be issued unless your application for a variance from the *Rules and Regulations for the Protection from Contamination, Degradation, and Pollution of the New York City Water Supply and its Sources* (Watershed Regulations) is granted by DEP and unless DEP finds the SSTS design approvable. DEP is of the opinion that given the fulfillment of all other administrative requirements, the application to DEP for a variance allowing construction of the SSTS within the NYSDEC wetland buffer is capable of being approved, as is the proposed design of the SSTS.

Please be reminded that the issues identified in our October 14, 2010 letter to the applicant must still be addressed in order to deem the variance application complete.

Ms. Rebecca S. Crist  
January 18, 2011

If you have any questions, please contact the undersigned at (914) 742-2055.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Shedlo', with a stylized flourish at the end.

Danny Shedlo, P.E.  
Wastewater Design Review  
Regulatory/Engineering Review

c: Town of Lewisboro Planning Board  
Melissa Siegel, NYCDEP Legal  
Hilary Meltzer, NYC Corporation Counsel  
Lou Carrea, PE, Westchester County Health Department  
Rudolph Petruccelli, PE, applicant



Robert P. Astorino  
County Executive

Cheryl Archbald, MD MPH  
Acting Commissioner of Health

January 31, 2011

Ms. Rebecca Crist  
NYSDEC Region 3 Headquarters  
21 South Putt Corners Road  
New Paltz, NY 12561

Re: Rudolph Petrucceilli Property  
Oscelata Road  
Lewisboro (T)  
Westchester County  
Section: 33-B; Block: 11157; Lot: 46

Dear Ms. Crist:

This Department is in receipt of a Notice of Incomplete Application issued by the New York State Department of Environmental Conservation (NYSDEC) regarding the approvability of an onsite wastewater treatment system (OWTS) at the above referenced property.

The Department has reviewed proposed construction plans for the OWTS and has determined that the construction plans are approvable upon receipt of the following:

1. As this property is located within the New York City Watershed and has been determined to require a "joint review" by this Department and the New York City Department of Environmental Protection (NYCDEP), the Department must receive a "Letter of No Objection" for the proposed project from the NYCDEP.
2. The applicant must supply the Department with a copy of the NYSDEC Wetland Permit for the proposed activity for the above location.

If you have any questions, please contact this writer at (914) 864-7347.

Very Truly Yours,

Frederick Beck, Jr.  
Assistant Engineer  
Bureau of Environmental Quality

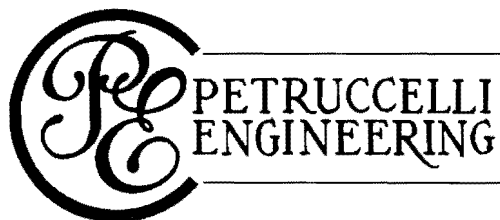
Cc: Rudolph Petruccelli, P.E., Owner  
Danny Shedlo, P.E., NYCDEP  
File

Department of Health  
118 North Bedford Road, Suite 100  
Mount Kisco, New York 10549

Telephone: (914) 864-7331  
(914) 864-7333

Fax: (914) 864-7341

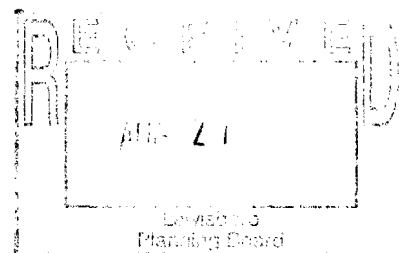




RUDOLPH C. PETRUCCELLI, P.E.  
*Principal*

August 21, 2013

Mr. and Mrs. Harold Rosenbaum  
2 Cove Road  
South Salem, NY 10590



Dear Mr. and Mrs. Rosenbaum:

On July 1, 2010 I sent you a letter, by Certified Mail, regarding the illegal drainage pipe from your property discharging stormwater onto my property and requested that you remove the pipe and place the pipe into a drywell, on your property, according to code. As of this date, the pipe has not been removed. On August 6, 2013 The Planning Board made a site walk of the property and observed the illegal pipe. At the Planning Board Meeting of August 13, 2013 The Board requested information regarding the origin of the lines tied into the pipe, ie. roof drains, driveway runoff, etc. I would appreciate your response to their request as soon as possible. In the meantime, I am again requesting that you immediately remove the pipe from my property and place it into a drywell as required by law.

Very truly yours,

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

cc. Jerome Kerner, AIA, Chairman  
Planning Board  
Town of Lewisboro



**THREE LAKES COUNCIL  
WACCABUC–OSCALETA–RIPPOWAM  
P.O. BOX 241, SOUTH SALEM, NY 10590  
[www.threelakescouncil.org](http://www.threelakescouncil.org)**

September 13, 2013

Town of Lewisboro Planning Board  
P. O. Box 725  
Cross River, NY 10518

Re: Petruccelli Application on Oscaleta Road, South Salem, NY.

Dear Chair Kerner and Members of the Planning Board:

The Three Lakes Council is a community organization that promotes the stewardship of the watershed and waters of lakes Waccabuc, Oscaleta, and Rippowam. Since 1970, we have been active in environmental protection, education, outreach, and research for these lakes. The association is comprised of members of the various associations around the three lakes, with approximately 330 families having access rights to the lakes. As watershed stewards, we are writing based on our knowledge of the lakes and of the environment to express our concerns with and opposition to the project as currently proposed by Mr. Petruccelli for his Oscaleta Road property.

As previously expressed to this board, the Three Lakes Council has two categories of concern. First, we feel that developing this property as currently proposed will have an adverse environmental impact upon Lake Waccabuc, the Three Lakes community, and upon Lewisboro as a whole. Second, we own the property directly to the south of the site, and we remain concerned about the harmful effects of the proposed activities upon our property.

In the recent plan submission revisions dated August 28, 2013, Mr. Petruccelli shows the footprint of the proposed house outside of the wetland. Since construction of the basement will require excavation and subsequent fill of the wetland, this presents only an illusory acknowledgement of the wetland and its functions. We cannot understand how anyone could build on this lot without violating the town code, which says depositing construction material within a wetland or buffer area is a prohibited activity.

The planned house, garage, yard, driveway, and septic system are entirely within the wetland buffer. The local wetland is within 400 feet of Lake Waccabuc, and currently holds water much of the year. As part of construction on this lot, most of this 8650 square foot Town wetland would be covered with fill that is three feet deep. Fill is required for placement of the septic tank, the initial septic fields, and future distribution box and fields. The remaining unfilled segment of the wetland is also disturbed, proposed to be made into an expanded wetland enhancement area with a two to three foot wall on one side, with more disturbance for a contiguous created wetland. No accommodation appears to limit the



flow of water onto neighboring Three Lakes Council property. As far as we know, the applicant has made no plans or commitments for monitoring and maintenance of the proposed wetland enhancement area. In other words, the entire local wetland topology and hydrology will be altered by the applicant without regard for the impacts to adjacent property or connected wetlands.

The plan eliminates 32 trees, and even more tree cutting is permitted because additional tree removal is allowed as determined in the field. Trees are an important part of the site hydrology through interruption of rainfall, evapotranspiration from the soil into the air, and enabling infiltration by the root structure. The removal of these trees combined with filling a wetland and more impervious surface will stress the ability of the remaining wetland to perform flood mitigation and nutrient removal functions.

The Three Lakes Council is also concerned that the proposed septic system may affect the quality of water in Lake Waccabuc, which the NYS Department of Environmental Conservation designates as a Class A drinking water lake. According to a 2006 survey, at least 17 homeowners obtain their household water from Lake Waccabuc. The threat of an additional septic system that may fail is a substantial risk to impose on these homeowners. While the Department of Health is concerned about treatment of septic effluent for pathogens, the Three Lakes Council is concerned about nutrient levels, especially nitrogen and phosphorus. Even septic systems with adequate function to prevent human harm from pathogens can be a leading source of nutrients. In freshwater systems, the nutrient of highest concern is phosphorus. Indeed, the town is currently undertaking costly stormwater projects to reduce the phosphorus pollution of Town waterbodies.

As documented in the Town's Lake Management Plan, septic systems are the primary source of phosphorus to the lakes. The Town Lake Management Plan recommends that no new septic systems be permitted to be built within 100 meters (approximately 330 feet) of a wetland or waterbody that connects to the Town's lakes. The applicant notes that the proposed septic system is less than 50 feet from the wetland that communicates directly with Lake Waccabuc. High levels of phosphorus are associated with harmful algal blooms, and these algal blooms can produce toxins that may affect the nervous system, the liver, and skin through consumption, contact, or inhalation. A typical household produces 0.5 g of phosphorus per day per person, and each gram of phosphorus can enable approximately 500 to 1000 grams of algae growth. Even if the applicant had shown an attempt to mitigate this impact with a phosphorus reduction unit in their septic system, we would remain very concerned, but we note that no such attempt is proposed. A septic system installed in such close proximity to these wetlands creates an unacceptable risk of harm to the water quality of the lakes and the associated drinking water sources, as well as to recreational users who may encounter harmful algal toxins. The lake ecosystem is stressed, and we do not know when a tipping point might be reached that would slide the lake beyond its capacity for resiliency.

Should the Planning Board decide, despite these risks, to allow this proposal to go forward, we urge that part of the mitigation include the installation of test wells between the septic area and the DEC wetland with scheduled monitoring for phosphorus, nitrogen, and coliform bacteria, and a plan to address any increase in nutrient loads. The current mitigation proposal, which largely consist of setting aside unusable property, is grossly inadequate to offset the filling of a wetland and the loss of wetland and buffer area functions. We also urge the Planning Board to require regular septic inspections and to suggest inclusion of phosphorus removal septic practices, since the septic system is such a critical element of this plan.

As to the harm to the entire Lewisboro community, we note that the current Lewisboro wetland ordinance states "Considerable acreage of these important natural resources has been lost or impaired by draining, dredging, filling, excavating, building, polluting, and other acts inconsistent with the natural uses of such areas.... It is therefore the policy of the Town of Lewisboro to protect its citizens, including generations yet unborn, by preventing the despoliation and destruction of wetlands...." We do not believe that the Petruccelli proposal is in keeping with the policy and intent of the Town's wetland law. We remind the Planning Board that the applicant will fill a wetland and will place the septic system expansion in fill within 50 feet of the DEC wetland. Indeed, the applicant's June 12, 2012 Engineering Report states, "The local wetland area impacts are unavoidable if any use of the project is to be approved." We reemphasize that Planning Board approval of the proposed actions on this site will set a poor precedent for future Town wetland protection.

Further, we own the property that is immediately to the south of Mr. Petruccelli's property. That gives the Three Lakes Council an additional reason for concern about the proposed activities. With a two- to three- foot wall on the north side of the remaining wetland area, we fear that the additional water in this area, anticipated after the fill of wetland, removal of trees, and increased impervious surface, will encroach on to the northern border of our property beyond the wetland's current extent. We would appreciate an assurance that the planning board will require a design that will not allow water from this site to flow onto our property, changing its hydrology and limiting potential future uses.

Again, we understand that our property is linked to the applicant's property, and a formal subdivision of the properties is proposed. We have no clear understanding of the ramifications of this subdivision proposal upon our property, if any. Without that understanding, we cannot give our support to opening the status of our property in this manner.

We strongly urge you not to approve the wetland permit or subdivision application. Thank you for hearing our concerns.

Sincerely,

A handwritten signature in cursive script that reads "Janet Andersen".

Janet Andersen  
President, Three Lakes Council

## Community Alert from the Three Lakes Council

The Three Lakes Council promotes stewardship of the watershed of lakes Waccabuc, Oscaleta, and Rippowam. We research and report on issues and coordinate community actions when appropriate. We feel that community response is now necessary.

An applicant proposes to build a house on Oscaleta Road in a wetland. Although the Town Lake Management Plan recommends 330 feet of separation for new septic systems, the planned septic system is 50 feet from a wetland linked to Lake Waccabuc.

Preservation of wetlands and wetland buffers supports important environmental functions that help protect our lakes and drinking water. This development would fill in a wetland, cut trees, and increase impervious surface. All construction is within the wetland and wetland buffer. The proposed mitigation, which is largely setting aside unusable property, is inadequate to offset the proposed wetland destruction. Approval would set a precedent that would undermine the Town's wetland protections.

Make your opinion known to the planning board by attending the Petruccelli Public Hearing or emailing [planning@lewisborogov.com](mailto:planning@lewisborogov.com). Find prior 3LC memos to the planning board and more at our website: [www.ThreeLakesCouncil.org](http://www.ThreeLakesCouncil.org)

**The Planning Board will hold a public hearing on September 17**  
at 7:30pm at the Cross River Shopping Center, Lower Level, behind DeCicco's Market.

### Make your voice heard!

The town will hold a public hearing on the application for building a house on Oscaleta Road by filling in a wetland and building the house and septic system entirely within the wetland buffer. Show up to voice your views!

**September 17, 2013 at 7:30pm - Lower Level Cross River Shopping Center**



[www.ThreeLakesCouncil.org](http://www.ThreeLakesCouncil.org)

*Celebrating 43 years of  
environmental stewardship*



42031283-56-374  
Three Lakes Council  
THREE LAKES COUNCIL, INC.  
PO BOX 241  
SOUTH SALEM NY 10590-0241

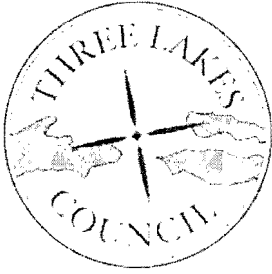
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Kenneth & Janet Donohue  
6 Twin Lakes Rd  
South Salem, NY 10590-1009



*Lisa - FYI*



**THREE LAKES COUNCIL**  
**WACCABUC-OSCALETA-RIPPOWAM**  
**P.O. BOX 241, SOUTH SALEM, NY 10590**  
**[www.threelakescouncil.org](http://www.threelakescouncil.org)**

February 9, 2013

Town of Lewisboro Planning Board  
P. O. Box 725  
Cross River, NY 10518

Re: Petruccelli Project on Oscaleta Road, South Salem, NY.

Dear Chair Kerner and Members of the Planning Board:

The Three Lakes Council is a community organization that promotes the stewardship of the watershed and waters of lakes Waccabuc, Oscaleta, and Rippowam. Since 1970, we have been active in environmental protection, education, and research for these lakes. The association is comprised of members of the various associations around the three lakes with approximately 330 families with access rights to the lakes. In our role as watershed stewards, we are writing based on our knowledge of the lakes and the environment to express our concerns with and opposition to the project as currently proposed by Mr. Petruccelli for his Oscaleta Road property.

The Three Lakes Council has two categories of concern. First, we feel that developing this property as currently proposed will have an adverse environmental impact upon Lake Waccabuc, the Three Lakes community, and upon Lewisboro as a whole. Second, we own the property directly to the south of the proposed development, and we remain concerned about the deleterious effects of the proposed activities upon our property.

In the recent plan submissions dated December 2012, Mr. Petruccelli has provided three different options for placement of the house. He shows one option, option 3, that moves the footprint of the house outside of the wetland, but obviously the house still remains within the wetland buffer. However, in all of the options, Mr. Petruccelli continues to propose to cover most of the 8650 square foot Town wetland with fill over four feet deep. The portion of the wetland that isn't filled is graded and made into a bioretention basin or pond. In other words, all development options alter the entire local wetland topology and hydrology. The local wetland is within 400 feet of Lake Waccabuc, and holds water most of the year. While the bioretention basin is stated to be a wetland enhancement, it is a totally reconstructed wetland area. The Three Lakes Council would appreciate information about the proposed monitoring and maintenance of the wetland enhancement area, and some visual monument to reduce the chances that a future homeowner will convert it to turf grass.

The Three Lakes Council is also concerned that the proposed septic system may be located at an elevation that could be affected by high lake levels. Mr. Petruccelli's plans show the elevation at the top of the septic system berm to be about 482'. The septic plans show a need for a minimum of 18" of cover and 5' from the septic system to groundwater. The Three Lakes Council has lake gauges and tracks the heights of the lakes. In recent years, we have seen Lake Waccabuc's elevation increase by about 33" after a significant storm. The USGS plans show that the typical lake level is about 473'. We are

concerned that the septic system plans require a minimum of 6.5' from its 482' level as a gap to groundwater (or 475.5'), and the lake levels have fluctuated by almost 3', or to approximately 476'. We would appreciate confirmation by the Town that the vertical separation of the proposed development is sufficient to avoid an increase in septic pollutant or nutrient groundwater flow to the wetland and thence to the lakes. As the applicant notes, the septic system is less than 50 feet from the wetland that communicates directly with Lake Waccabuc. A reduction in house size to two bedrooms might allow the septic expansion area to be contained entirely within the run of bank material, and would reduce the septic load. We suggest that test wells be installed between the septic area and the DEC wetland to monitor for phosphorus, nitrogen, and coliform bacteria. Since a typical household produces 0.5 g of phosphorus per day per person, and since each gram of phosphorus can enable approximately 500 grams of algae growth, we encourage the installation of a phosphorus reduction unit in the proposed septic system.

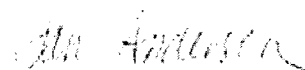
As to the harm to the entire Lewisboro community, we note that the current Lewisboro wetland ordinance states "Considerable acreage of these important natural resources has been lost or impaired by draining, dredging, filling, excavating, building, polluting, and other acts inconsistent with the natural uses of such areas.... It is therefore the policy of the Town of Lewisboro to protect its citizens, including generations yet unborn, by preventing the despoliation and destruction of wetlands...." We do not believe that the Petruccelli proposal is in keeping with the policy and intent of the wetland law, and that Planning Board actions on this site may set a poor precedent for Town wetland protection.

Furthermore, we own the property that is immediately to the south of Mr. Petruccelli's property. That gives the Three Lakes Council an additional reason for concern about the proposed activities. We note the elimination of the overflow into the DEC wetland, which may help to lessen the impact of this proposal on the DEC wetland. Without any overflow, we fear that the water in this basin will encroach on to the northern border of our property. We would appreciate an assessment of the size and anticipated frequency of the storm design point for this wetland enhancement area, and assurance that the water that previously filled the wetland will not flow onto our property, changing its hydrology and limiting potential future uses.

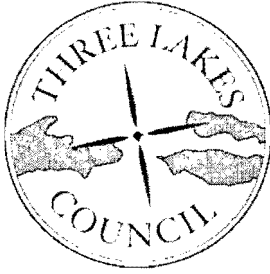
Again, we understand that our property is linked to the applicant's property, and that he is proposing a formal subdivision of the properties. We have not been contacted by the applicant about this proposed subdivision and we have no clear understanding of the ramifications of this proposal upon our property, if any. We intend to devote our limited resources to our environmental activities and do not want to have to engage legal counsel, planning consultants, engineering, or other experts to help us evaluate the implications of this proposal. Without that understanding, we cannot give our support to opening the status of our property in this manner.

Thank you for your attention to our concerns.

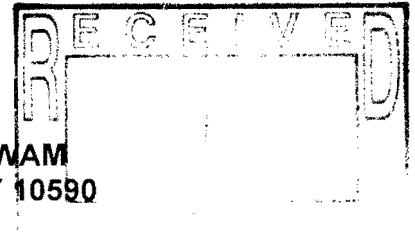
Sincerely,



Janet Andersen  
President, Three Lakes Council



**THREE LAKES COUNCIL**  
**WACCABUC-OSCALETA-RIPPOWAM**  
**P.O. BOX 241, SOUTH SALEM, NY 10590**  
**[www.threelakescouncil.org](http://www.threelakescouncil.org)**



October 18, 2012

Town of Lewisboro Planning Board  
P. O. Box 725  
Cross River, NY 10518

Re: Petruccelli Project on Oscaleta Road, South Salem, NY.

Dear Chair Kerner and Members of the Planning Board:

The Three Lakes Council is a community organization that promotes the maintenance and stewardship of the watershed of lakes Waccabuc, Oscaleta, and Rippowam. Since 1970, we have been active in environmental protection, stewardship, and research for these lakes. The association is comprised of members of the various associations with access rights to the three lakes with approximately 330 families. In our role as watershed stewards, we are writing based on our knowledge of the lakes and the environment to express our concerns with and opposition to the project as proposed by Mr. Petruccelli for his Oscaleta Road property.

The Three Lakes Council has two categories of concern. First, we feel that developing this property as currently proposed will have an adverse environmental impact upon Lake Waccabuc, the Three Lakes community, and upon Lewisboro as a whole. Second, we own the property directly to the south of the proposed development, and we are concerned about the deleterious effects of the proposed activities upon our property.

In the current proposal, to build a house, Mr. Petruccelli proposes to fill in an 8650 square foot Town wetland, and then build his house, septic system, and driveway either in this doomed wetland or in its buffer. The wetland is within 400 feet of Lake Waccabuc, and it holds water most of the year. The elimination of this wetland will mean more untreated water will flow into Lake Waccabuc, even before consideration of the added impervious pavement and deforestation of half an acre. More nutrients and sediment are detrimental to the lake's health: indeed much of the outreach we provide is to educate our watershed residents to preserve open areas, protect wetlands, maintain and expand buffer landscaping, and minimize nutrient loading to the three lakes. Mr. Petruccelli's proposal will result in more nutrient-laden runoff to Lake Waccabuc and thus will worsen the lake's water quality for its residents and users. The impacted users include the entire Three Lakes community, as they can all access Lake Waccabuc through the channels that connect the lakes.

We are also concerned that the proposed septic system may be located at an elevation that could be saturated by high lake levels. We have established lake gauges and track the heights of the lakes. In recent years, we have seen the lake elevation change by about 33". We note that Mr. Petruccelli's plans use relative but not absolute contour lines, and we ask that Mr. Petruccelli provide a contour level for the lake surface in the same elevation used for his contours. With that information and the date of the

reading, we will be able to calculate how high water has come in the recent past. That will allow assessment of the vertical separation of the lake's recent recorded levels and the septic system, a comparison that we feel is essential for this application. As the applicant notes, the septic system is less than 50 feet from the wetland that communicates directly with Lake Waccabuc.

As to the harm to the entire Lewisboro community, we note that the current Lewisboro wetland ordinance has permitted, restricted, and prohibited activities. Filling a wetland is one example of Mr. Petruccelli's proposed actions that is explicitly classified as a prohibited activity. If the Planning Board allows a prohibited activity in this instance, essentially nullifying the law, what will happen in any future case? We note that the ordinance lays out the "General Powers of the Planning Board:... to do any and all things necessary or convenient to carry out the policy and intent of this chapter." We do not believe that the Petruccelli proposal is in keeping with the policy and intent of the wetland law, and we do not feel that you can or should permit an activity that is prohibited under Town law.

Furthermore, we own the property that is immediately to the south of Mr. Petruccelli's property. That gives the Three Lakes Council an additional reason for concern about the proposed activities. Since the applicant has not provided any mitigation for filling in the wetland, the water that previously filled the wetland will flow onto our property, changing its hydrology and limiting potential future uses.

In addition, we understand that our property is linked to the applicant's property, and that he is proposing a formal subdivision of the properties. We have not been contacted by the applicant about this proposed subdivision and we have no clear understanding of the ramifications of this proposal upon our property, if any. We intend to devote our limited resources to our environmental activities and do not want to have to engage legal counsel, planning consultants, engineering, or other experts to help us evaluate the implications of this proposal. Without that understanding, we cannot give our support to opening the status of our property in this manner.

Thank you for your attention to our concerns.

Sincerely,



Three Lakes Council  
Janet Andersen  
President



**THREE LAKES COUNCIL  
WACCABUC–OSCALETA–RIPPOWAM  
P.O. BOX 241, SOUTH SALEM, NY 10590  
[www.threelakescouncil.org](http://www.threelakescouncil.org)**

November 13, 2013

Town of Lewisboro Planning Board  
P. O. Box 725  
Cross River, NY 10518

Re: Petruccelli Application on Oscaleta Road, South Salem, NY.

Dear Chair Kerner and Members of the Planning Board:

As the Planning Board considers the subject application, you might be interested in the history of the parcel that is immediately to the south of the Petruccelli parcel. The Three Lakes Council acquired ownership of that parcel in 1996, and the land continues to be a valuable asset to our organization. The following information was compiled from minutes and other documents in our files, from Planning Board files, and from discussions with past Three Lakes Council officers.

In 1985 the Eastbrook Construction Company, Inc. acquired the parcel for \$60,000. Eastbrook Construction Company first applied for a wetland permit on March 27, 1987 to construct a house, septic system and driveway within 100' of wetland areas (the regulated wetland buffer at that time) and to construct a new 800 square foot wetland area. This application was denied by the Planning Board on September 1, 1987. Eastbrook Construction Company submitted a second application on September 23, 1988 which was very similar to the first, and the Planning Board again denied the application on March 7, 1989. The reasons for denying the two Eastbrook applications were similar, and included:

- Onsite wetlands that are part of a larger wetland system. The functions of the wetland include stormwater storage, biochemical oxidation of contaminated road runoff, and wildlife habitat.
- The plans called for placement of 3000 cubic yards of fill on top of the wetlands and 3000 square feet of impervious surface.
- Construction on the property could drain the wetlands on the property to the north (the current Petruccelli parcel), altering the hydrology and the nature of the vegetation.
- Development would create risks of further future damage to the wetlands and contamination of surface and ground water.
- Construction would eliminate 0.5 acres of wetlands on the site.
- Approval of a permit would not be consistent with the purposes of the Town of Lewisboro's wetland protection law.



The Eastbrook proposal partially used the berms that had previously been installed on these lots. A report by Keith E. Simpson and Associates, of New Canaan, CT, dated 12/5/1988, prepared in support of the Eastbrook proposal, states that the fill has been "placed on what was once contiguous wetland area". The Natural Resource Inventory map also shows wetlands on that parcel (attached).

The Three Lakes Council acquired this property because we recognized the value of protecting the wetlands that are interconnected with the lakes. While owning property is not our organization's primary purpose, in this instance ownership conforms to our mission of stewardship and environmental protection. By holding this parcel, we ensure that no one will create a nuisance on it that would jeopardize the health of the lakes. In addition to wetlands that have the ability to clean the waters that enter the lake and attenuate the flood waters, we recognize the value of the natural habitat and riparian vegetation. While we feel that the ecosystem services are a value in themselves, we also remain open to potential economic benefits from our property. For example, in 1997 the Three Lakes Council issued an easement to New York Telephone (aka NYNEX) as a site for their telephone support equipment, for which we received \$13,000. The Three Lakes Council continues to retain this property not only for its environmental functions but also for unspecified potential future uses.

The implications of the history of our property should be clear for the current application before the board by Mr. Petruccelli. Mr. Petruccelli acquired the property for \$4000. His proposal includes building a house, septic system, and driveway within the wetland buffer, just as proposed by the Eastbrook Construction Company. Mr Petruccelli would fill in a wetland, just as proposed by Eastbrook. The current application proposes a created wetland area, which was considered inadequate mitigation in the Eastbrook case. Both proposals rely on the fill previously placed on the wetland. Construction could alter the hydrology of wetlands on an adjacent lot. Building on these lots would create a nuisance that goes against the public welfare and public trust. The land retains value even as an unbuildable lot.

We do not believe Mr. Petruccelli has demonstrated that the proposed activities are in accord with the policies and provisions of the Lewisboro Freshwater Wetlands ordinance. We note that it is the obligation of the applicant to prove compliance. The Planning Board twice denied the Eastbrook application in the past, and the Planning Board should deny the current application for the adjacent lot.

Once again, the Three Lakes Council strongly urges you not to approve Mr. Petruccelli's wetland permit application or subdivision application. Thank you for hearing our concerns.

Sincerely,

A handwritten signature in dark ink, appearing to read "Janet Andersen". The signature is fluid and cursive, written in a professional but personal style.

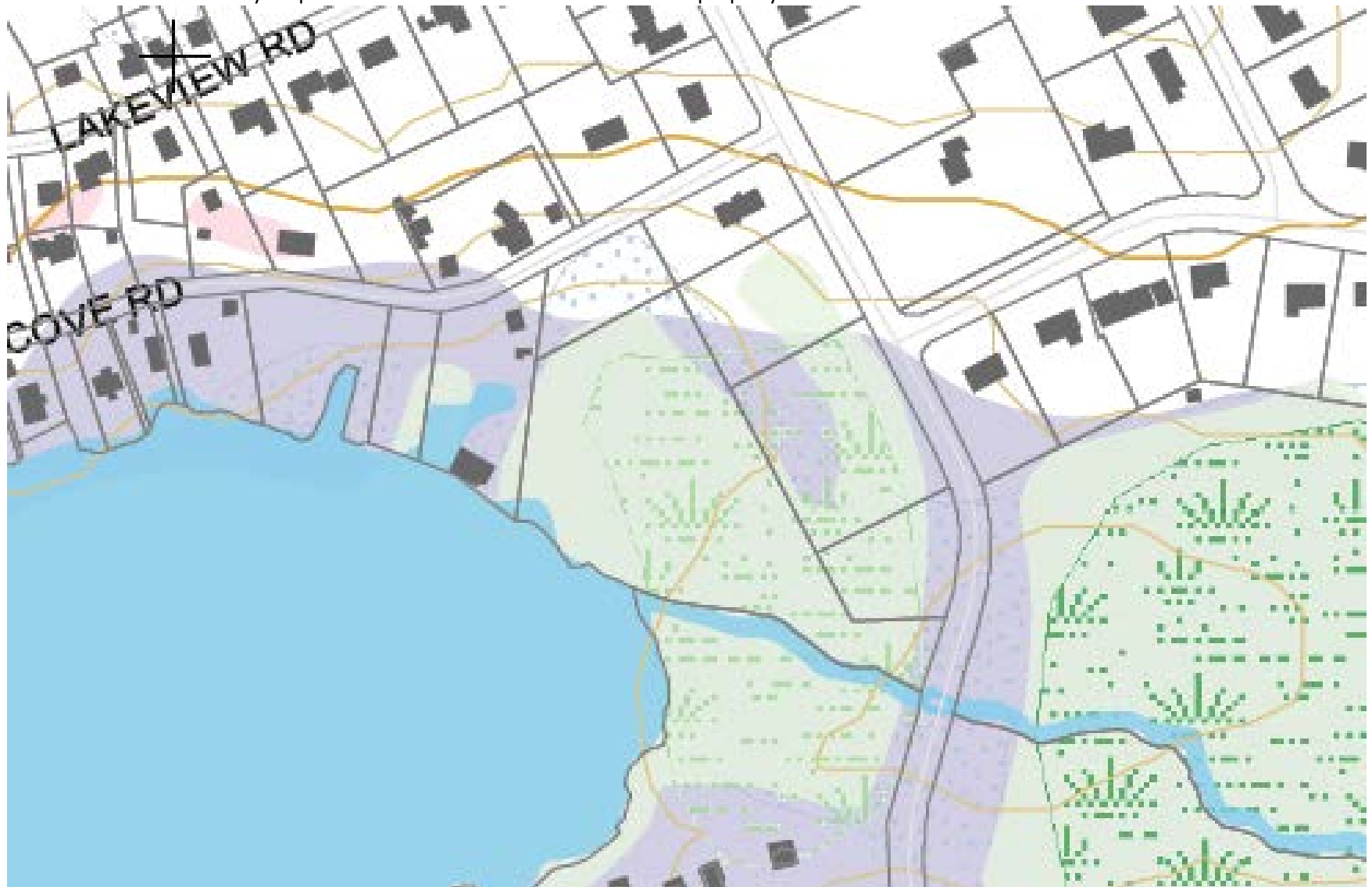
Janet Andersen  
President, Three Lakes Council

Attachments



Natural Resource Inventory Map zoomed to show wetlands on Petruccelli property.

National Wetlands Inventory  
Floodplains 100



PETRUCELLI			
LETTERS FROM NEIGHBORS			
Reverse Chronological Order			
NAME		DATE	METHOD
Last	First	RECEIVED	RECEIVED
Cowles	Frederick	11/18/2013	Email
Rosenbaum	Harold	11/16/2013	Email
Hausman	Judith	11/15/2013	Email
Terman	Barbara and Lewis	11/13/2013	Email
Friedman	Bart	11/12/2013	Email
Vernarde	David	11/12/2013	Email
Brutzer/Anderson	Christian/Regina	11/12/2013	Email
Wilson	Victor and Sherri	11/12/2013	Email
Gracie	Carol	11/12/2013	Email
Hersch	Katherine	10/10/2013	US Mail
Shane	Art	9/16/2013	Email
Lewis	Paul	9/16/2013	Email
Lewis	Jean	9/15/2013	Email
Robinson	James	9/15/2013	Email
Harris	Colleen	9/15/2013	Email
Shields	Amy	9/15/2013	Email
Feiner	Senia	9/15/2013	Email
Beardsley	Peter	9/15/2013	Email
Sinnott	John	9/15/2013	Email
Cassano	Margaret and Rudolph	9/11/2013	US Mail
Horowitz & Vernarde	Sarah, David	9/10/2013	Email
Wilson	Victor and Sherri	9/10/2013	US Mail
Llanos	Beth	9/9/2013	Email
Rosenbaum	Harold	9/7/2013	US Mail
Hartley	Sarah, David	9/5/2013	Email
Gracie/Mori	Carol/Scott	9/5/2013	Email
Hausman	Judith	8/31/2013	Email
Tedaldi	Dr. & Mrs.	8/29/2013	US Mail
Owen	Tara	8/29/2013	Email
Terman	Barbara and Lewis	8/16/2013	Email
Cowles	Frederick	8/5/2013	US Mail
Ross	Allan	7/26/2013	Email
Friedman	Ben	7/17/2013	Email
Baker	Deborah	7/16/2013	Email
Berman	Elaine	7/16/2013	Email
Harris	Susan	7/15/2013	Email
Llanos	Beth	7/15/2013	Email

<b>PETRUCELLI</b>			
<b>LETTERS FROM NEIGHBORS</b>			
<b>Reverse Chronological Order</b>			
Stein (Friedman)	Wendy	7/15/2013	Email
Palmer	Elizabeth	7/14/2013	Email
Brockelman	Curtis and Lynn	7/14/2013	Email
Hartley	Sarah, David	7/14/2013	Email
Schneider	Anne	7/14/2013	Email
Weale	Carol	7/14/2013	Email
Cowles	Frederick	5/7/2013	US Mail
Cowles	Frederick	2/12/2013	US Mail
Rosenbaum	Harold	2/6/2013	FAX

**From:** [focowles@bestweb.net](mailto:focowles@bestweb.net)  
**To:** [planning@lewisborogov.com](mailto:planning@lewisborogov.com)  
**Subject:** Petruccelli Application  
**Date:** Monday, November 18, 2013 9:35:54 AM

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November 18, 2013

Re: Petruccelli Application - Oscaleta Road

Dear Chairman Kerner and Members of the Planning Board:

I refer to the Nov. 5, 2013 Memorandum on Wetlands Functionality submitted by Mr. Petruccelli's wetlands consultants, Tim Miller Associates, Inc. If I am reading this Memorandum correctly, Mr. Steve Marino opines that:

a) the berms, not Mother Nature, have created wetlands on the subject property, and b) if the berms were to be removed, the wetlands would disappear and become "uplands."

(It is not clear whether this opinion is only about the wetlands in the front of the property, or would also embrace the DEC wetlands to the back of the property, which - together with the 150' buffer zone - also impacts Mr. Petruccelli's application.)

The Town of Lewisboro's wetlands consultants are better qualified than I to reply to the scientific aspects of Mr. Marino's theories. I would only observe that the contour maps and lay of the land show the entire lot to be a natural extension of a consistent and low-lying gradual slope up from Lake Waccabuc, through the Town of Lewisboro land and DEC wetlands, and up to the edge of Oscaleta Road, with reports of historic past flooding to and over Oscaleta Road. The contour maps and lay of the land show a similar gradual slope downward through the subject property toward the channel between Lakes Oscaleta and Waccabuc. I do not understand how either of the berms on the property could create a "depression" unless the dirt for the berms had been dug out from the property, which is nowhere evidenced.

As a matter of common sense, if the property was not already wetlands, why were the berms installed? I would also ask Mr. Petruccelli whether, relying on his wetland consultants' opinion, he is proposing to withdraw his building application at this time, and substitute an application to carefully (perhaps under Town and DEC supervision) remove all the land fill which established the berms, and let Mother Nature determine over a couple of years whether the wetlands remain, or disappear and become "uplands."

In any event, it appears that Mr. Petruccelli's wetland consultants agree that the wetlands existed in 1982 when Mr. Petruccelli purchased the property, and also agree that the location of the wetlands has been correctly marked. Nothing in the Nov. 5th Memorandum disputes or changes the fact that the entire property consists of wetlands and/or wetlands buffer.

As per my previous letters to the Planning Board, I firmly believe Mr. Petruccelli's application contravenes our Lewisboro Wetlands Ordinance and should be denied.

Respectfully yours,

Frederick O. Cowles

111 Oscaleta Road, South Salem



**From:** [Harold Rosenbaum](#)  
**To:** [planning@lewisborogov.com](mailto:planning@lewisborogov.com)  
**Subject:** Petruccelli/Rosenbaum  
**Date:** Saturday, November 16, 2013 7:26:28 AM  
**Attachments:** [img121.jpg](#)

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> Dear Members of the Planning Board,  
>  
> My property, at 2 Cove Road, is the lot adjacent to Mr. Petruccelli's. On July 1, 2010, He  
> wrote me a letter (which is attached here) in which he claimed that the runoff from my drainpipe  
> (which collects water from the roof during rainstorms, and from land  
> sloping down my driveway into the drain, has caused wetlands on his  
> property. That is absurd. I have seen huge pools of water, both frozen  
> and unfrozen, at the center and far end of his property (from mine) for  
> many years. In addition, I have keenly observed, during torrential  
> rainstorms, the extent of water running out of my drainpipe. The water puddles on the surface of my  
property and never goes near his property. What happens underground I do not know.  
>  
> His property is slightly downhill from mine. I would imagine that water  
> from my property, and from many other properties north of mine, all higher  
> than mine, have runoff that comes into my property and through it, into  
> his, probably since time immemorial. That's what you can expect to happen when you buy cheap  
land that is the lowest-lying in the neighborhood and part of a mapped wetland."

Respectfully Yours,

Harold Rosenbaum

2 Cove Road

South Salem, NY 10590

>

--

Harold Rosenbaum

Founder: The Harold Rosenbaum Choral Conducting Institute

([www.haroldrosenbaum.com/institute](http://www.haroldrosenbaum.com/institute))

Artistic Director: The New York Virtuoso Singers ([www.nyvirtuoso.org](http://www.nyvirtuoso.org)),

The Canticum Novum Singers ([www.canticumnovum.org](http://www.canticumnovum.org))

and The Society for Universal Sacred Music ([www.universalsacredmusic.org](http://www.universalsacredmusic.org))

Lead Choral Conductor - Parma Recordings

Soundbrush Records Artist

Editor: G. Schirmer Music Publisher (*Harold Rosenbaum Choral Series*)

Associate Professor: The University at Buffalo

Music Director: St. Luke's Episcopal Church, Katonah, NY

Home phone: 914 763 3453

Cell phone: 914 582 3915

Twitter: @HaroldRosenbaum



**To See YouTube Performances**

Go to <https://www.youtube.com/playlist?list=PLIMNsoZVK4fCnPePNzMxSgR8UijZbX4fn>

**From:** [Judith Hausman](#)  
**To:** [planning@lewisborogov.com](mailto:planning@lewisborogov.com)  
**Subject:** Petruccelli parcel  
**Date:** Friday, November 15, 2013 9:13:48 AM

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Dear Planning Board Members

I urge you to deny this permit once and for all.

In this post-Sandy time, we have become even more aware of the crucial role of wetlands; it's disturbing that the board would consider putting our local wetlands at risk. Living in an especially fragile and especially precious setting, we have an obligation to protect it from abuse & speculation.

Please say no to this threat. Guide Mr. Petruccelli to find another path to make best use of his holding, such as a donation to the town or Land Trust, perhaps.

--

Judith Hausman  
Lake Waccabuc

**From:** [Lewis Terman](#)  
**To:** [planning@lewisborogov.com](mailto:planning@lewisborogov.com)  
**Subject:** Petruccelli Building Permit  
**Date:** Wednesday, November 13, 2013 4:20:57 PM

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To: Town of Lewisboro Planning Board

Previously, we wrote prior to the postponed October Planning Board meeting. We urge you to re-read both our letter and the numerous other letters that were sent for the October meeting.

We especially draw your attention to the many points raised by Frederick Cowles. Of the many points he raised and should be addressed, two stood out:

1. "The mathematical impossibility of on site mitigation on a lot which is 100% either wetlands or buffer."
2. The Petruccelli lot "is not a buildable lot under (the) Lewisboro zoning code."

Mr. Cowles also raised as very important point – that the lot has not been taxed as a buildable lot.

Given that we have seen this property almost daily for many decades as a "wet land" and have learned about objections such as those noted above and by many others, especially those submitted by the Three Lakes Council, we are convinced that this proposal should not be approved, and that any such approval would set a very bad precedent in Lewisboro. It would certainly threaten the lakes, and have significant impact on the overall environment.

Barbara and Lewis Terman  
61 Twin Lakes Road

From: [Friedman, Bart](#)  
To: ["planning@lewisborogov.com"](mailto:planning@lewisborogov.com)  
Subject: Petrucelli proposal  
Date: Tuesday, November 12, 2013 4:39:03 PM

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I am a resident of Waccabuc residing on Waccabuc Lake. The reason I am in this splendid part of Westchester is because of the quality of the water and the purity of Lake Waccabuc. We are all stewards of this extraordinary resource for the next generation. The Petrucelli proposal is a extraordinarily dangerous idea for the development of property in a fragile environment. We cannot and we should not let is proceed.

Bart Friedman  
5 The Hook,  
Waccabuc, NY

---

**Bart Friedman | Partner**

Cahill Gordon & Reindel LLP

80 Pine Street, New York, NY 10005

t: +1.212.701.3304 | f: +1.212.378.2189 | m: +1.917.544.3300 | [bfriedman@cahill.com](mailto:bfriedman@cahill.com)



\* \* \* \* \*

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**From:** [David Venarde](#)  
**To:** [planning@lewisborogov.com](mailto:planning@lewisborogov.com)  
**Subject:** 11/19/13 Planning Board Meeting  
**Date:** Tuesday, November 12, 2013 3:20:51 PM

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Dear Members of the Lewisboro Planning Board:

We are residents of 9 Waterview Court in South Salem, New York, and we are writing in reference to the an application by Rudolph Petruccelli to build in wetlands off Oscaleta Road, near Cove Road, and adjacent to Lake Waccabuc.

As longtime residents of the community, we are extremely concerned about the environmental impact of such development in the wetlands of Lake Waccabuc, and we strongly oppose the application submitted for development on this land. The risks of developing this property (filling land, septic management) to the environmental integrity of the lake are great. By our reading of the wetland law, this is just the type of critical wetland the law is intended to protect.

Please add our strongest objections to the application to the minutes for the Planning Board meeting to be held on September 17, 2013.

Sincerely,

David Venarde and Sarah Horowitz

--

David F. Venarde, Psy.D.  
Licensed Psychologist  
244 Fifth Avenue, Suite 9B  
New York, NY 10001  
[P. 212.213.3286](tel:212.213.3286)  
[F. 212.213.3287](tel:212.213.3287)  
[davidvenarde.com](http://davidvenarde.com)

Assistant Clinical Professor of Psychiatry and Behavioral Sciences,  
Mt. Sinai School of Medicine  
Supervising Psychologist,  
Beth Israel Medical Center

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Thank you.



**From:** [Christian Brutzer](#)  
**To:** [planning@lewisborogov.com](mailto:planning@lewisborogov.com)  
**Subject:** Petruccelli Application on Oscaleta Road, South Salem, NY  
**Date:** Tuesday, November 12, 2013 1:26:38 PM

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Town of Lewisboro Planning Board

P. O. Box 725

Cross River, NY 10518

South Salem, NY, November 11, 2013

Re: Petruccelli Application on Oscaleta Road, South Salem, NY.

Dear Chair Kerner and Members of the Planning Board:

We are living near Lake Waccabuc with deeded lake rights and have been involved in many activities to preserve the 3 Lakes in our neighborhood. We are also members of the Lake Waccabuc Association and the 3Lakes Council and have seen the growth of plants due to ever rising nutrient levels. We are greatly concerned about the pending application referenced above and urge you not to approve it in its current form.

We strongly feel that developing this property as currently proposed will have an adverse environmental impact upon Lake Waccabuc, the Three Lakes community, and upon Lewisboro as a whole. We also are concerned about



the harmful effects of the proposed activities and the quality of life in our entire lake neighborhood.

In the recent plan submission, Mr. Petruccelli shows the footprint of the proposed house outside of the wetland. Since construction of the basement will require excavation and subsequent fill of the wetland, this presents only an illusory acknowledgement of the wetland and its functions. We cannot understand how anyone could build on this lot without violating the town code, which says depositing construction material within a wetland or buffer area is a prohibited activity.

The planned house, garage, yard, driveway, and septic system are entirely within the wetland buffer. The local wetland is within 400 feet of Lake Waccabuc, and currently holds water much of the year. As part of construction on this lot, most of this 8650 square foot Town wetland would be covered with fill that is three feet deep. Fill is required for placement of the septic tank, the initial septic fields, and future distribution box and fields. The remaining unfilled segment of the wetland is also disturbed, proposed to be made into an expanded wetland enhancement area with a two to three foot wall on one side, with more disturbance for a contiguous created wetland. No accommodation appears to limit the flow of water onto neighboring Three Lakes Council property.

As far as we know, the applicant has made no plans or commitments for monitoring and maintenance of the proposed wetland enhancement area. In other words, the entire local wetland topology and hydrology will be altered by the applicant without regard for the impacts to adjacent property or connected wetlands.

The plan eliminates 32 trees, and even more tree cutting is permitted because additional tree removal is allowed as determined in the field. Trees are an important part of the site hydrology through interruption of rainfall, evapotranspiration from the soil into the air, and enabling infiltration by the

root structure. The removal of these trees combined with filling a wetland and more impervious surface will stress the ability of the remaining wetland to perform flood mitigation and nutrient removal functions.

As members of The Three Lakes Council, we are also concerned that the proposed septic system may affect the quality of water in Lake Waccabuc, which the NYS Department of Environmental Conservation designates as a Class A drinking water lake. According to a 2006 survey, at least 17 homeowners obtain their household water from Lake Waccabuc. The threat of an additional septic system that may fail is a substantial risk to impose on these homeowners. While the Department of Health is concerned about treatment of septic effluent for pathogens, the Three Lakes Council is concerned about nutrient levels, especially nitrogen and phosphorus. Even septic systems with adequate function to prevent human harm from pathogens can be a leading source of nutrients. In freshwater systems, the nutrient of highest concern is phosphorus. Indeed, the town is currently undertaking costly stormwater projects to reduce the phosphorus pollution of Town waterbodies.

As documented in the Town's Lake Management Plan, septic systems are the primary source of phosphorus to the lakes. The Town Lake Management Plan recommends that no new septic systems be permitted to be built within 100 meters (approximately 330 feet) of a wetland or waterbody that connects to the Town's lakes. The applicant notes that the proposed septic system is less than 50 feet from the wetland that communicates directly with Lake Waccabuc. High levels of phosphorus are associated with harmful algal blooms, and these algal blooms can produce toxins that may affect the nervous system, the liver, and skin through consumption, contact, or inhalation. A typical household produces 0.5 g of phosphorus per day per person, and each gram of phosphorus can enable approximately 500 to 1000 grams of algae growth. Even if the applicant had shown an attempt to mitigate this impact with a phosphorus reduction unit in their septic system, we would remain very concerned, but we note that no such attempt is proposed. A septic system installed in such close proximity to these wetlands creates an unacceptable risk of harm to the water quality of the lakes and the

associated drinking water sources, as well as to recreational users who may encounter harmful algal toxins. The lake ecosystem is stressed, and we do not know when a tipping point might be reached that would slide the lake beyond its capacity for resiliency

Should the Planning Board decide, despite these risks, to allow this proposal to go forward, we urge that part of the mitigation include the installation of test wells between the septic area and the DEC wetland with scheduled monitoring for phosphorus, nitrogen, and coliform bacteria, and a plan to address any increase in nutrient loads. The current mitigation proposal, which largely consist of setting aside unusable property, is grossly inadequate to offset the filling of a wetland and the loss of wetland and buffer area functions. We also urge the Planning Board to require regular septic inspections and to suggest inclusion of phosphorus removal septic practices, since the septic system is such a critical element of this plan.

As to the harm to the entire Lewisboro community, we note that the current Lewisboro wetland ordinance states “Considerable acreage of these important natural resources has been lost or impaired by draining, dredging, filling, excavating, building, polluting, and other acts inconsistent with the natural uses of such areas.... It is therefore the policy of the Town of Lewisboro to protect its citizens, including generations yet unborn, by preventing the despoliation and destruction of wetlands....” We do not believe that the Petruccelli proposal is in keeping with the policy and intent of the Town’s wetland law. We remind the Planning Board that the applicant will fill a wetland and will place the septic system expansion in fill within 50 feet of the DEC wetland. Indeed, the applicant’s June 12, 2012 Engineering Report states, “The local wetland area impacts are unavoidable if any use of the project is to be approved.” We reemphasize that Planning Board approval of the proposed actions on this site will set a poor precedent for future Town wetland protection.

In closing, we againstrongly urge you not to approve the wetland permit or subdivision application. Thank you for hearing our concerns.

Sincerely,

*Regina Anderson & Christian Brutzer*  
26 Old Pond Road , South Salem, NY 10590

**From:** [Victor & Sherri Wilson](#)  
**To:** [planning@lewisborogov.com](mailto:planning@lewisborogov.com)  
**Subject:** Application to Build House on Oscaleta Road - VOTE NO!  
**Date:** Tuesday, November 12, 2013 9:38:28 AM

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Dear Sir or Madam:

We will be unable to attend the Planning Board meeting on Nov. 19th. Therefore, we wish to voice our vehement **OBJECTION** to this application.

We have lived in Lewisboro for thirty years and during that time were witness to the struggle to STRENGTHEN, not diminish wetlands regulations.

It is our understanding that the Town Lake Management Plan recommends 330 feet of separation for new septic systems. The separation for the planned septic system for the Petrucelli's is only 50 feet which is **unacceptable**.

**The regulations were on the books when the Petrucelli's purchased their property; therefore, they knew the consequences. EXCEPTIONS cannot be made.** The regulations apply to EVERYONE. This action could set a terrible precedent. The regulations were promulgated to preserve the quality of the lakes and must be respected.

VOTE AGAINST THIS APPLICATION.

We hereby request that our statement be read into the minutes.

Concerned Lewisboro residents,

Victor & Sherri Wilson  
PO Box 422  
Waccabuc, NY 10597

**From:** [Ms. Carol Gracie](#)  
**To:** [planning@lewisborogov.com](mailto:planning@lewisborogov.com)  
**Subject:** Proposed development of land on Oscaleta Road  
**Date:** Tuesday, November 12, 2013 9:10:23 AM

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Planning Board,

With the approaching date for the Public Hearing on the Petrocelli proposal to build in a wetlands area with potential negative effects on the environment of the sensitive Three Lakes area, I would urge you to reread my letter and those of others concerned about this matter sent earlier this fall.

My enjoyment of living in Lewisboro, and in the Three Lakes area, in particular, is due in great part to the natural beauty of the woods and wetlands that had (I thought) been preserved in perpetuity. To violate the town's own legal protection for these areas to acquiesce to the wishes of one person seems short-sighted, if not illegal. Please give this matter careful consideration with regard to the precedent it sets and to the rights of all to enjoy what is left of our natural heritage.

Sincerely,

Carol Gracie  
19 North Lake Circle  
South Salem

RECEIVED  
10-10-13

KATHERINE HERSCH  
12 WATERVIEW COURT  
SOUTH SALEM, NEW YORK 10590  
(914) 763-5935

October 2, 2013

Town of Lewisboro  
Attn: Planning Board  
P. O. Box 725  
Cross River, NY 10518

Re: Petrucelli proposal

Members of the Planning Board:

I am a homeowner on the shore of Lake Waccabuc and am one of those whose drinking water comes from the lake. I am opposed to the Petrucelli proposal to build and particularly to locate a septic system adjacent to a wetland on the edge of Lake Waccabuc. It would appear that such construction could not fail to adversely affect the fragile wetlands environment. I cannot understand how such a project could be approved.

I plan to attend the hearing now scheduled for November 19, but wanted to make sure you have a record of my views against this proposal.

Sincerely,



KATHHERSCH@HOTMAIL.COM

**Lisa Pisera**

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**From:** Art Shane [artshane@optonline.net]  
**Sent:** Monday, September 16, 2013 7:51 AM  
**To:** planning@lewisborogov.com  
**Subject:** re.Petrucelli Lake Waccabuc wetland building proposal

PLEASE turn down the proposal!!! This is a "slippery slope" situation that threatens not only our swimming safety , but the purity of N.Y.C. drinking water. Mimi Shane, member of 3 Lakes Council



## Lisa Pisera

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**From:** Paul Lewis [lewispa@optonline.net]  
**Sent:** Monday, September 16, 2013 12:16 PM  
**To:** [planning@lewisborogov.com](mailto:planning@lewisborogov.com)  
**Subject:** Cal #8-12 PB and Cal# 61-09 WP - Petruccelli

To: Town of Lewisboro Planning Board  
Via email to [planning@lewisborogov.com](mailto:planning@lewisborogov.com)

From: Paul Lewis  
44 Twin Lakes Road  
South Salem, NY 10590

Date: September 16, 2013

Re: Cal #8-12PB and Cal #61-09 WP - **Petruccelli Application** for subdivision and wetland permit  
Oscaleta Road, South Salem, NY

Dear Chair Kerner and Members of the Planning Board:

I am strongly opposed to the granting of a wetland permit for the Petruccelli plan, and to the legalization of this subdivision.

There is insufficient buildable area on this lot, which was not created using the town's subdivision procedure in 1970. While we didn't have a wetlands ordinance then, we clearly knew that wetlands were starting to be protected. That was the mission of the CAC which was created at that time, and I was one of its first members. The lot now owned by Petruccelli was shown to contain wetlands on the Town Water Resources Map adopted by the Town Board on January 9, 1973. A Town Wetland Ordinance was adopted on July 9, 1974.

It is evident that the site cannot support this level of development. A myriad of plans have been submitted over the years, and none have been satisfactory. All would have destroyed a valuable wetland. Several photos of the wetland and showing the water are included at the end of this document.

The Planning Board should feel no obligation to approve the application for development of this lot which was never properly subdivided to begin with. The Three Lakes Council acquired the adjacent lot in the '70s, under crisis circumstances, to halt a similar development. The Three Lakes and the lakes' residents should not have to suffer the consequences of development of a substandard lot with totally inadequate mitigation.

We have had inordinately severe rainstorms in the last few years, and based on the predicted impacts of global climate change, we should expect increased severity and intensity in the future. In just the last few weeks, we had a 2+ inch rainfall in less than an hour on 8/28/13, and a 3"- 4" rainfall in half an hour on 9/2/13. This lot, if developed, will not be able to retain that amount of rainfall. There is some runoff from it now, but the phosphorus level is lower for an undeveloped, forested lot. Based on the P loading coefficients used in the phosphorus budget calculations for our watershed in the Three Lakes 2004 Lake Study, the phosphorus is .206 kg/ha/yr for forested land, and 1.1 for

residential development, a 5X increase. It is likely that the excess rainwater will be dumped on the Three Lakes Council property to the South, and eventually into Lake Waccabuc.

It appears that basically none of this .68 acre parcel will be left undisturbed. A small area west of the septic fields may not be disturbed by this proposal, but that was disturbed by previous owners. I am not aware of any previous incident where a Wetland Permit has been approved that has permitted such a high percentage of wetland and wetland buffer disturbance. Essentially all the buffer area will be developed thereby eliminating nearly all of that buffer function. The function of this valuable wetland and wetland buffer will be destroyed. Granting a permit for this proposal will greatly weaken the ability to protect the Town's wetlands in the future. It would set a dangerous precedent.

Petrucelli Local Wetland Photos taken 2/12/2010:

From Oscaleta Road:



From Three Lakes Council Property, Cowles' house in background:



From Three Lakes Council property looking toward Rosenbaum's:



To: Town of Lewisboro Planning Board  
Via email to [planning@lewisborogov.com](mailto:planning@lewisborogov.com)

From: Jean Lewis  
44 Twin Lakes Road  
South Salem, NY 10590

Re: **Petrucelli Application** for subdivision and wetland permit  
Oscaleta Road, South Salem, NY

Date: September 15, 2013

Dear Chair Kerner and Members of the Planning Board:

As one who has lived on Twin Lakes Road for forty-eight years, and walked past the Petrucelli lot daily, I can verify that it has been under water almost all year long for many years. I urge that you deny permission to fill in and destroy this ecologically valuable wetland.

Rather than repeat objections so well stated in the Three Lakes Council's letter to you, I urge you to give serious consideration to the points made in that letter. Paul and I have both been actively involved in the Three Lakes Council since its inception in 1970. Residents were aware that our lakes were becoming increasingly fragile, and Lake Waccabuc is a drinking water lake. In 2003, the Council hired its first lake manager to study and monitor lake water quality and vegetation, and to develop a Three Lakes Management Plan. A decade of scientific expertise guides the Council's lake preservation activities, including its opposition to the Petrucelli plan.

My final point is this: Lewisboro's lakes and wetlands are among its most precious and valuable assets. That is why wetlands protections were recommended in the Town Lakes Management Plan, and required by the Wetlands Ordinance. I expect those protections to be respected and enforced. If this wetland destructive project is approved, our wetlands protections would be unenforceable in the future.

Thank you taking my comments and those of the Three Lakes Council into consideration.

Jean Lewis

**Lisa Pisera**

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**From:** Kaul1st@Optonline [kaul1st@optonline.net]  
**Sent:** Sunday, September 15, 2013 3:34 PM  
**To:** planning@lewisborogov.com  
**Subject:** You must please vote "no" on the approval of the Petruccelli Lake Waccabuc wetland building proposal

To Whom It Concerns:

You must please vote "no" on the approval of the Petruccelli Lake Waccabuc wetland building proposal.

This is not about money – it is about the, OUR, environmental protection.

The wetlands laws were written to protect our wetlands, and must be enforced when there are so many clear possibilities that an exception in this case MAY lead to environmental damage.

Please listen to the residents and your neighbors and reject this proposal, not out of spite, but for common sense and the greater good.

Sincerely,  
James Robinson

**Lisa Pisera**

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**From:** colleen harris [cmhpebbles@hotmail.com]  
**Sent:** Sunday, September 15, 2013 6:16 PM  
**To:** planning@lewisborogov.com  
**Subject:** Petrucelli and Wetlands

Dear Planning,

My daughter is now in 5th grade at LES and for several years now during their "trail Day" at LES, they have been learning about watersheds, wetlands; their definitions, purposes, contributions and impact they have on the environment around them and visa versa. Let's "walk our talk". That is simply, no place to build. Foolishness is what that would be. As I will be out of town during the meeting of 9/17, I stand with Jan Anderson, Jean Lewis and many others who have researched this. I strongly oppose building on this site.

Sincerely,  
Colleen Harris

**Lisa Pisera**

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**From:** Amy C. Shields [2inwashington@gmail.com]  
**Sent:** Sunday, September 15, 2013 6:18 PM  
**To:** planning@lewisborogov.com  
**Subject:** Regarding the Petruccelli permit

I am a lifelong resident of South Salem and a current resident on Cove Road. I am writing to express my dismay that this permit is even being considered, and I certainly hope it will be denied. It's obvious to anyone who drives by the Petruccelli lot regularly that this is well and truly a wetland with all the benefits to the lake that wetlands imbue to say nothing of the wildlife that makes use of this necessary biome. To have this area destroyed by filling it in and building on it just boggles the mind in this day and age. When we know, absolutely, the science that gives proof to the necessity of wetlands well then, how dumb do we have to be to ignore that?

I realize the difficulty is that you have a property owner who wishes to improve his property. However, he has known for many years now that the hurdles he'd have to jump made it highly unlikely he would be able to build. I know that the former county engineer, Ed Delaney, turned down the application for a septic on this property many years ago. Put him out of his misery and tell him unequivocally NO.

Thank you.

Amy C. Shields



## **Lisa Pisera**

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**From:** Senia Feiner [senia@sccny.com]  
**Sent:** Sunday, September 15, 2013 6:51 PM  
**To:** planning@lewisborogov.com  
**Subject:** Petruccelli Application on Oscaleta Road, South Salem, NY

Dear Planning Board,

I am a resident of Twin Lakes Road and feel that the Petruccelli application on Oscaleta Road will have a negative environmental impact on the lake ecosystem. Also because of excavation, septic and building materials the current application would most certainly violate town code. I therefore urge the board to not approve the wetland permit or subdivision application.

Thank you,  
Senia Feiner  
48 Twin Lakes Raod

**Peter W. Beardsley**  
**6 Waterview Court**  
**South Salem, NY 10590**  
[pwbeardsley@gmail.com](mailto:pwbeardsley@gmail.com)

September 15, 2013

Town of Lewisboro Planning Board  
PO Box 725  
Cross River, NY 10518

Re: Petruccelli Application on Oscaleta Road, South Salem, NY

Dear Chair Kerner and Members of the Planning Board:

I am writing to support the statements made in opposition to the proposed development of the Petruccelli parcel on Oscaleta Road made by, among others, the Town of Lewisboro Conservation Advisory Council, the Three Lakes Council, and the Lewisboro Lakes Committee.

Briefly stated, the facts in this case are clear, the impacts of the proposed development are significant, and the concerns about any proposed development of this parcel have been clearly and thoughtfully presented.

Over the forty years that I have lived on Lake Waccabuc, residents of Three Lakes community have monitored lake water quality and, with the guidance of the Three Lakes Council, learned to understand our role in lake preservation and management. We know that nutrient loading compromises water quality and that wetlands adjacent to the lakes serve an important role in lake protection.

In the last two years, we have experienced extremes in weather and rainfall. Based on informal observations, the water level in Lake Waccabuc can vary by over two feet, and in times of flooding, wetlands absorb excess water and filter nutrients. We should be vigilant, now more than ever, in preserving wetlands.

The Petruccelli application for a wetlands permit should be denied, as was the request for a wetlands permit to build a house on the adjacent parcel on Oscaleta Road a number of years ago.

Sincerely,

Peter Beardsley

**Lisa Pisera**

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**From:** Jack [jsinnott@optonline.net]  
**Sent:** Sunday, September 15, 2013 11:32 AM  
**To:** planning@lewisborogov.com  
**Subject:** Application for WETLANDS/BUILDING PERMIT--LAKE WACCABUC WETLANDS

This letter is to voice my severe concern for the requester's (Petrucelli) plan to build a house on this sensitive wetland property. I am urging the Planning Board to disapprove this request.

As a homeowner on the lakefront of Lake Waccabuc for the past fourteen years, I am concerned that my Town would allow any construction on this wetland that drains directly into our lake. This sensitive area should not be disturbed or altered to accommodate a septic system. This property has remained undeveloped for many, many years for very good reasons. I expect that our Town government will continue to keep it this way.

As a director on the Board of the Three Lakes Council, and the past President for the past eight years, I am convinced that it is inappropriate to develop this sensitive wetland. Our organization, in fact, owns the adjoining property between this lot and the Lake Waccabuc/Oscaleta channel. For many years, I have been personally involved with this wetland area in my capacity on the Board, and to approve an application to develop in this wetland is simply the wrong decision. Making accommodations and dictating precautions to enable the applicant to build here is a very negative precedent to set in our Town and the wrong position for your Board to take.

Thank you for listening to my opinion; and please do not approve this application.

JOHN J SINNOTT,  
4 The Hook  
Waccabuc

*Rudolph and Marge Cassano  
One Cove Road  
South Salem NY 10590*

September 11, 2013

RE: CAL # 8-12 PB and CAL #61-09 WP  
Application for wetland activity by: Petruccelli

To Whom It May Concern:

My husband and I have lived in our home on Cove Road, across the street from the proposed building site, for over 50 years. We strongly object to Mr. Petruccelli's application to build on this property as it is all wetlands and acts as an environmental filter to the lake. His proposal to build would destroy the habitats of a diverse number of plants and animals. In addition, should his septic system fail during heavy rain or lack of upkeep it would contaminate the lake that many residents use directly for their domestic water. In addition, these waters flow directly into reservoirs.

This property was sold in the early sixties by Merwin Dick~~in~~<sup>61</sup> to Donald Reed as a place Mr. Reed could use to go fishing. Mr. Reed purchased the land knowing it was wetlands and would not be buildable. This property has changed hands over the years but all owners knew it was not a building site. At one point someone attempted to build, adding an illegal foundation, which the town made them remove because it violated all wetland ordinances.

Our lakes provide us with drinking water, recreation, and a place to relax. A home on this site could destroy this for everyone.

Sincerely,

*Margaret Cassano*  
*Rudolph G. Cassano*  
Marge Cassano

**Lisa Pisera**

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**From:** David Venarde [david.venarde@gmail.com]  
**Sent:** Tuesday, September 10, 2013 3:58 PM  
**To:** planning@lewisborogov.com  
**Cc:** Sarah Horowitz  
**Subject:** 9/17 planning meeting - objection to application

Dear Members of the Lewisboro Planning Board:

We are residents of 9 Waterview Court in South Salem, New York, and we are writing in reference to the an application by Rudolph Petruccelli to build in wetlands off Oscaleta Road, near Cove Road, and adjacent to Lake Waccabuc.

As longtime residents of the community, we are extremely concerned about the environmental impact of such development in the wetlands of Lake Waccabuc, and we strongly oppose the application submitted for development on this land. The risks of developing this property (filling land, septic management) to the environmental integrity of the lake are great. By our reading of the wetland law, this is just the type of critical wetland the law is intended to protect.

Please add our strongest objections to the application to the minutes for the Planning Board meeting to be held on September 17, 2013.

Sincerely,

David Venarde and Sarah Horowitz

--

David F. Venarde, Psy.D.  
Licensed Psychologist  
244 Fifth Avenue, Suite 9B  
New York, NY 10001  
P. 212.213.3286  
F. 212.213.3287  
[davidvenarde.com](http://davidvenarde.com)

Assistant Clinical Professor of Psychiatry and Behavioral Sciences,  
Mt. Sinai School of Medicine  
Supervising Psychologist,  
Beth Israel Medical Center

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**Lisa Pisera**

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**From:** Victor & Sherri Wilson [wilsonline@optonline.net]  
**Sent:** Tuesday, September 10, 2013 1:37 PM  
**To:** Lewisboro Planning Board  
**Subject:** Application to Build House on Oscaleta Road - VOTE NO!

Dear Sir or Madam:

We will be unable to attend the Planning Board meeting on Sept. 17. Therefore, we wish to voice our vehement **OBJECTION** to this application.

We have lived in Lewisboro for thirty years and during that time were witness to the struggle to STRENGTHEN, not diminish wetlands regulations.

It is our understanding that the Town Lake Management Plan recommends 330 feet of separation for new septic systems. The separation for the planned septic system for the Petrucelli's is only 50 feet which is **unacceptable**.

**The regulations were on the books when the Petrucelli's purchased their property; therefore, they knew the consequences. EXCEPTIONS cannot be made.** The regulations apply to EVERYONE. This action could set a terrible precedent. The regulations were promulgated to preserve the quality of the lakes and must be respected.

VOTE AGAINST THIS APPLICATION.

We hereby request that our statement be read into the minutes.

Thank you for your consideration,

Victor and Sherri Wilson  
76 East Ridge Road  
PO Box 422  
Waccabuc

**Lisa Pisera**

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**From:** Beth Llanos [bethllanos@gmail.com]  
**Sent:** Monday, September 09, 2013 2:53 PM  
**To:** planning@lewisborogov.com  
**Subject:** Re: Possible Impact on Lake Waccabuc

Please add my concerns to the public record for the meeting on September 17th.

On Mon, Jul 15, 2013 at 1:46 PM, Beth Llanos <bethllanos@gmail.com> wrote:

I'm writing to express my concern of a proposed building by Rudolph Petruccelli. This lot which consists of wetlands is environmentally important to the quality of lake Waccabuc as well as lake Oscaleta. Building a home on this lot will damage the eco-system.

In addition, with the super storms that we have had these last couple of years, Waccabuc has tended to flood. Home owners on Cove Road have seen their crawl spaces/basements and even first floors flooded. One year it was so bad, that the water came across the road. The volume of rain and melting snow was too much for the lake and gutters to handle.

I would hate to imagine what would happen if a septic system broke. Even an above ground system with all the necessary precautions taken would do serious harm to our environment, the wildlife that depend on the quality of our lakes, and the residents on Waccabuc that port water to their houses.

Please do not approve building on this lot. Residents of Somers are working hard to clean up the oil spill on Lake Lincolndale due to a failure in an oil tank in the basement. Don't let our community be the next to close a lake due to unforeseen circumstances.

Regards,  
Beth Llanos

**Lisa Pisera**

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**From:** Harold Rosenbaum [haroldrosenbaum@gmail.com]  
**Sent:** Saturday, September 07, 2013 7:03 AM  
**To:** planning@lewisborogov.com  
**Subject:** Petruccelli

Dear Members of the Planning Board:

This is a follow-up letter to the one I wrote you a few months ago, re-expressing my concerns and opposing any house on Mr. Petruccelli's lot adjacent to mine.

I am writing specifically to advise that over the last 8 days my basement has flooded twice. And this is late summer, not springtime when melting snows, spring rains, and bare slumbering trees typically create a problem on my property and many nearby.

I have just had to install a sump pump in my driveway, which is in addition to the one already in my garage. Before we buried the new outside pump, the water level had risen to about 1 foot from the ground surface. While this is a lower portion of my lot than the Cove Road high-side, it is still higher than any of the Petruccelli lot. I believe Mr. Petruccelli is claiming that his water level is lower than what it actually is.

If I am experiencing water level flooding on the lower parts of my lot, I can't imagine the problems any house and septic on Mr. Petruccelli's EVEN LOWER lot would create, for itself, for its bordering lots toward the channel and the lake, and for Lake Waccabuc itself.

There should be no house built on that wetlands lot.

Thank you,

Sincerely,

Harold Rosenbaum,

2 Cove Road

--

Harold Rosenbaum

Artistic Director: The New York Virtuoso Singers ([www.nyvirtuoso.org](http://www.nyvirtuoso.org)),  
The Canticum Novum Singers ([www.canticumnovum.org](http://www.canticumnovum.org))  
and The Society for Universal Sacred Music ([www.universalsacredmusic.org](http://www.universalsacredmusic.org))  
Lead Choral Conductor - Parma Recordings  
Soundbrush Records Artist  
Editor: G. Schirmer Music Publisher (*Harold Rosenbaum Choral Series*)  
Associate Professor: The University at Buffalo  
Music Director: St. Luke's Episcopal Church, Katonah, NY

Home phone: 914 763 3453  
Cell phone: 914 582 3915



**Lisa Pisera**

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**From:** sara hartley [sarahartleymd@gmail.com]  
**Sent:** Thursday, September 05, 2013 8:35 PM  
**To:** planning@lewisborogov.com  
**Subject:** Stop Lake Waccabuc wetlands building

Dear Lewisboro Planning Board

I strongly support the crucial protection of necessary wetlands and oppose any compromise of the safety of the Three Lake system by 'land fill septic fields' and needless waiver of environmental protections.

The rights of a single home builder cannot violate the rights of hundreds of Three Lakes residents, wildlife and legal wetlands codes. Homes can be built in safe lots without breaking the law and causing severe ecological risk.

Please do the right thing.

Thanks for your attention.

Sara Hartley, MD  
36 Twin Lakes Road  
South Salem, NY 10590

**Lisa Pisera**

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**From:** Carol Gracie [cgracie@optonline.net]  
**Sent:** Thursday, September 05, 2013 11:28 AM  
**To:** planning@lewisborogov.com  
**Subject:** Proposed house on Oscaleta Road

Planning Board:

I am writing because my husband and I will be unable to attend the September 17th town meeting to discuss the proposed house to be built on Oscaleta Road, near the intersection of Twin Lakes Road. I am both surprised and distressed to hear that the Planning Board is giving consideration to the construction of a house on a lot that would require the filling of a wetland and cause the potential for leaching of septic wastes and other undesirable matter into Lake Waccabuc. In addition, the necessary removal of many trees would be required in order to enable construction with the resultant erosion of soil, which would further fill the wetlands and ultimately flow into the lake.

My husband and I are happy to live in a community that values the protection of the natural environment in part through the presence of strict regulations that prevent building upon, or otherwise disturbing, wetlands and steep slopes. However, such laws have no meaning if they are not enforced. To permit building on the proposed lot would also set a dangerous precedent for future such proposals.

I strongly urge you to deny this project based on consideration for the protection of our environment and the integrity of our environmental regulations.

Sincerely,

Carol Gracie & Scott Mori  
19 North Lake Circle  
South Salem, NY 10590

**Lisa Pisera**

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**From:** Judith Hausman [hauswriter@gmail.com]  
**Sent:** Saturday, August 31, 2013 3:11 PM  
**To:** planning@lewisborogov.com  
**Subject:** Oscaleta wetlands

Board Members:

I am writing to express my concern about the house proposed for the wetlands abutting Lake Waccabuc.

It's alarming that in this post-Sandy era, in which our awareness of the importance of wetlands in flood regulation and as a protective ecosystem is growing, the Planning Board would entertain this proposal. Apparently even the mitigation system proposed is inadequate.

As a resident concerned about our ever-more fragile lake environment, I strenuously urge the Board to deny this permit application.

--

Judith Hausman  
Cove Rd.  
South Salem

Dr. E. Tedaldi  
59 Twin Lakes Rd.  
South Salem, NY 10590

August 29, 2013

Dear Sirs:

Unfortunately my wife and I will be unable to attend the Petruccelli public hearing on Sept. 17<sup>th</sup>. As residents of the three lakes for over fifty years we are firmly against this house being built on wet land. Cutting down trees and building a house with a septic system would certainly cause pollution.

Your consideration to this important matter is greatly appreciated.

Sincerely  
Dr. & Mrs. Tedaldi

8-1288

**Lisa Pisera**

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**From:** tara@taocommunications.com  
**Sent:** Thursday, August 29, 2013 10:07 AM  
**To:** planning@lewisborogov.com  
**Subject:** Opposed to Oscaleta Road development

I would like to register my objection to the planned development of the swamp abutting the channel between Lakes Waccabuc and Oscaleta (Petrucci property) for all the reasons cited by the Three Lakes Council in their memos to you.

If ever there were a legitimate wetland, this is it. The area regularly floods and is covered in swamp cabbage. Plus, there's every reason to expect that development will compromise the channel, severely affecting the health of the lakes and surrounding watershed.

Thank you,

Tara A. Owen  
50 Cove Road  
South Salem, NY 10590

**Lisa Pisera**

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**From:** Lewis Terman [terman@us.ibm.com]  
**Sent:** Friday, August 16, 2013 3:46 PM  
**To:** planning@lewisborogov.com  
**Subject:** Petrucelli Building Permit

**Importance:** High

**To:** Lewisboro Planning Board

**Subject:** Proposed residence on Oscaleta Road near Cove Road, applied for by Rudolph Petrucelli

We have been residents of Twin Lakes Road for almost five decades and have been walking past the subject property six days a week for at least a decade. This property is very subject to being under standing water; we have seen water remain on it for months, even when other land around has drained. We are worried about the effects of building on the lot and of the impact a septic system would have on the lakes. This property, from our observations, clearly is "wet lands." Any septic system would periodically be inundated, impacting the septic system and negatively impacting the wetlands and Lake Waccabuc water quality.

Forcing a septic system into a wet lands area makes no sense. The house should not be built.

Barbara and Lewis Terman  
61 Twin Lakes Road

To: The Planning Board  
Town of Lewisboro  
PO Box 725  
Cross River, NY 10518

From: Frederick O. Cowles  
111 Oscaleta Rd.  
South Salem, NY 10590

Re: Petruccelli Project, Oscaleta Rd.

August 5, 2013

Dear Chair Kerner and Members of the Planning Board:

The above file includes my prior letters of Feb. 12<sup>th</sup>, 2013 and May 7<sup>th</sup>, 2013.

As the Planning Board, Lewisboro CAC, and Town Engineers will be conducting a site walk tomorrow evening (August 6<sup>th</sup>), to which the public is not invited, I felt it expedient to raise the following questions/observations to include in what is no doubt a long list of matters for site walk focus.

1) The view of this lot at this particular snap-shot time of year will be fairly typical. The large number of trees in both the wetlands portions and remainder (all buffer-zone) portions of this lot are fulfilling their perfect "sponge" roles, together with lower-lying vegetation. The amount of surface water overall is substantially less than during the 7 to 8 months of late fall, winter and early spring. During those (majority) times of the year, when the trees are bare and inactive, boots would be essential for any site walk. Applicant's Alternative 3 plans call for complete removal of at least 34 trees equal or greater than 8" in diameter. The linked wetlands/buffer environmental functions served by this lot are exactly as itemized in our Lewisboro Wetlands Ordinance Sect. 217-1, Findings of Fact/Intent.

2) I am unsure of the height specifications proposed by Applicant for the raised septic system. His most recent Alternative 3 map appears to show no raising of the existing berm where the septic tank and leaching field are proposed to be located. The top of this berm appears to be no more than 3 or possibly 4 feet above ground level (estimated from viewing from neighboring properties). My understanding of Westchester Board of Health requirements for an approvable septic system are that it must be at least 7 feet, possibly 8 feet(?) , above ground water level. What is the Applicant's allegation of ground water level? How was this determined, i.e. by core samples at some fixed date favorable to Applicant or – since ground water levels fluctuate seasonally in our neighborhood, (as every landowner will confirm who has a sump-pump in their basement )– by a "high-water" measurement at spring rain-time? Have our Town Engineers or other consultants independently confirmed for us that an accurate year-round ground water level is being used?

3) My May 7<sup>th</sup>, 2013 letter comments on the mathematical impossibility of on-site mitigation on a lot which is 100% either wetlands or buffer, and on the trifling nature of Applicant's proposed "mitigation" (such as 6,041 sq. feet of a special seed mix (sic!)). The site walk should take note

of the 6,751 square foot proposed Conservation Easement location. This embraces the NYState DEC wetlands portion of the lot, and is located directly between the proposed septic/leaching system and the Town of Lewisboro's adjacent land. Since this property is not buildable in the first place, the proposed conservation easement grants no positive additional protection at all and therefore should not be counted as any mitigation. But worst yet, although Applicant has not disclosed yet the name of the "lucky" proposed grantee of his easement, this easement, without careful lawyering by the proposed recipient, could actually pass on to some third party some of the liability/responsibility/involvement in any septic system leakage or failure.

Sincerely,

Frederick O. Cowles



**Lisa Pisera**

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**From:** Allan Ross [rossalp41@gmail.com]  
**Sent:** Friday, July 26, 2013 11:39 AM  
**To:** planning@lewisborogov.com  
**Subject:** Rudolph Petrucelli wetland permit

To: Lewisboro Planning Board

I am concerned that the proposed construction of a residence on Oscaleta Road in South Salem- Application Cal #8-12PB and Cal#61-09 WP-might pose a threat to the integrity of the wetlands there and the quality of the water in the lakes of what is referred to as the Three Lakes Association.

I am a property owner on Perch Bay Road in Waccabuc, with deeded lake rights, and the prospect of a septic system close enough to contaminate the water in the lakes deeply concerns me and my family.

I would like to be allowed to walk the site whenever that is planned, and would like to be apprised of that event.

Thank you.

Yours truly,  
Allan Ross  
31 Perch Bay Road  
Box 86  
Waccabuc, NY 10597

**Lisa Pisera**

**From:** Friedman, Ben [bfriedman@nrdc.org]

**Sent:** Wednesday, July 17, 2013 3:44 PM

**To:** planning@lewisborogov.com

**Subject:** Environmental Loss of Wetlands

To Whom it May Concern at the Lewisboro Planning Board-

I'm writing to express my extreme concern with Mr. Petruccelli's intention to build on a lot on Oscoleta road known to contain critical wetlands. Since this proposed project directly impacts lake waccabuc's ecosystem and water quality, all residents would be affected. As a master's candidate at the Yale School of Forestry and Environmental Studies and a Summer Associate at the Natural Resources Defense Council, I can say unequivocally wetlands are some of this region and country's most critical and threatened resources, and protect water quality and habitat that is beneficial to humans and native species. Lewisboro must protect its natural heritage.

Best,

Ben Friedman

5 The Hook Road, Waccabuc NY

7/18/2013

**Lisa Pisera**

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**From:** Deb Baker [bakerwassner@gmail.com]  
**Sent:** Tuesday, July 16, 2013 3:03 PM  
**To:** planning@lewisborogov.com  
**Cc:** Renee Goldstein  
**Subject:** Application to build private residence on Lake Waccabuc Wetlands

I am writing to the Town Planning Board to express my strong concern about the planning Board even considering the permitting of a currently vacant lot, located smack dab in the middle of our two already very fragile lakes.

My husband and I have lived on lake Waccabuc for 20 years and do not remember a year when the water quality, clarity and weeds has been worse. It hasn't been good for the last few years, and while we use to say/ believe it would be better the next year, we are no longer so sure it will ever recover. The current water quality of the lakes, the invasive and choking weeds approaching and exiting the cannal and blanketing the shallower reaches of our lakes have already meaningfully diminished the quality of life experienced living here.

We follow good husbandry of the lake, use no fertilizers, pesticides, and pump our septic annually, but sadly not everyone does. There are sufficient exceptions to "wise wetlands management" already necessitated to accommodate households already on the lake in need of occasional relief from its strictures. It would be the height of folly and imprudence to facilitate further density of our lakes, especially on marginally habital properties such as the one under consideration in this proposal! Our alarm is further enhanced by our reliance on the lake for our drinking water. We and many others might find our health and our investment in our beloved lake homes at risk if the lake water were to have further deterioration.

Please do not proceed with anything which would impinge on the canal, it's wild life, or directly or indirectly affect the water quality of our lakes.

Sent from my iPad  
Deborah Baker  
28 Cove Road  
South Salem, NY 10590  
914 763 9050

**Lisa Pisera**

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**From:** elaine berman [berman88@optonline.net]  
**Sent:** Tuesday, July 16, 2013 1:22 PM  
**To:** planning@lewisborogov.com  
**Subject:** Letter of Concern re: Application to Build on Lake Waccabuc Wetlands

To the Lewisboro Planning Board:

The building application submitted by Mr. Rudolph Petruccelli, to build a residence upon a wetlands lot on Oscaleta Road, poses serious environmental concerns to lake water quality. Because the septic/leach field system must be above ground, the danger of flooding and lake water contamination exists. One need only look to last week's news of the closing of Lake Lincolndale beaches due to an aboveground oil tank spill, to see how easily an accident can occur. Add to that mechanical or material malfunctions, severe storms, downed trees, flooding and extended power outages and the possibilities of an already precarious situation become even more dire. Households draw their water from the lake, people fish and swim. We are drawn together as a community because of our love of the lake. In addition, building on this lot would create an environmental impact with the destruction of wetlands and the loss of habitat to flora and fauna. This lake and its surrounding wetlands are a rare and precious resource, to be respected and protected. The lot that is being discussed is in a beautiful wetlands area. Disruption of this area affects the lake and everyone who lives around it. It is impossible to engineer around this fact.

Sincerely,

Elaine Berman  
45 Cove Road  
South Salem NY 10590

**Lisa Pisera**

**From:** Susan Harris [kuklaherc@gmail.com]

**Sent:** Monday, July 15, 2013 7:04 PM

**To:** planning@lewisborogov.com

**Subject:** APPLICATION TO BUILD RESIDENCE ON LAKE WACCABUC WETLANDS

My name is Susan Harris, and I reside in Lake Waccabuc Assn. I am amazed and disappointed that there is any consideration of a building permit on Oscaleta Road wetlands for Rudolph Petruccelli, owner of Valhalla-based Petruccelli Engineering. I am concerned that any above-ground septic/leaching field could be compromised and end up in our Lake! This is unacceptable. My understanding is that the wetlands and lakes are protected by law. Please do not consider this application. It would constitute a terrible precedent and we can not compromise the health of our lakes and our families.

Thank you,

Susan Harris  
1 Shady Glen Ct.  
South Salem, NY 10590

7/16/2013

8-12-13

**Lisa Pisera****From:** Beth Llanos [bethllanos@gmail.com]**Sent:** Monday, July 15, 2013 1:46 PM**To:** planning@lewisborogov.com**Subject:** Possible Impact on Lake Waccabuc

I'm writing to express my concern of a proposed building by Rudolph Petruccelli. This lot which consists of wetlands is environmentally important to the quality of lake Waccabuc as well as lake Oscaleta. Building a home on this lot will damage the eco-system.

In addition, with the super storms that we have had these last couple of years, Waccabuc has tended to flood. Home owners on Cove Road have seen their crawl spaces/basements and even first floors flooded. One year it was so bad, that the water came across the road. The volume of rain and melting snow was too much for the lake and gutters to handle.

I would hate to imagine what would happen if a septic system broke. Even an above ground system with all the necessary precautions taken would do serious harm to our environment, the wildlife that depend on the quality of our lakes, and the residents on Waccabuc that port water to their houses.

Please do not approve building on this lot. Residents of Somers are working hard to clean up the oil spill on Lake Lincolndale due to a failure in an oil tank in the basement. Don't let our community be the next to close a lake due to unforeseen circumstances.

Regards,  
Beth Llanos

7/16/2013

**Lisa Pisera**

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**From:** wendy stein [wendyastein@gmail.com]  
**Sent:** Monday, July 15, 2013 9:30 AM  
**To:** planning@lewisborogov.com  
**Cc:** Bart Friedman  
**Subject:** Please do not permit building on Waccabuc Wetlands

Dear Friends,

I am a concerned neighbor, and urge your resistance to permit building in the wetlands of Lake Waccabuc. The request currently before your board, to build on a lot on Oscaleta Road near the end of Cove Road, must be denied. This is of vital importance to the quality of the lake. The quality of the lake is central to the property values all around the lake, all around the three lakes area, and indeed all of Lewisboro and even neighboring towns. In addition, preservation of wetlands is essential to the animal and plant life that sustain the rural character of our community.

Prior to purchasing our current home, at 5 The Hook, we rented for a time near the end of Cove Road, and I can state from personal experience that that is an area of the lake that demands the most stringent protection.

Please, do not permit building on this wetlands site!

Best,  
Wendy A. Stein (Friedman)

8-12 RB

**Lisa Pisera**

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**From:** elepa@aol.com  
**Sent:** Sunday, July 14, 2013 9:50 PM  
**To:** planning@lewisborogov.com  
**Subject:** Tuesday's (July 17th) 7 p.m. Planning Board Agenda for "Discussion of Site Visit"

Dear Board Members,

My name is Elizabeth Palmer and my primary home is 6 Lakeview Road. I have a M.A. in Environmental Science. I teach high school Chemistry and Environmental Studies. I know the parcel of land under consideration for development well. I believe it is vital to the health of our lakes and should be protected. I am disappointed that the town's regulations would allow time and money to be spent on such a proposal. I am unable to be present at the July 17 meeting but would like my objection to be on record.

Thank you,

Elizabeth Palmer



**Lisa Pisera**

**From:** PIGBROCK@aol.com  
**Sent:** Sunday, July 14, 2013 8:40 PM  
**To:** Planning@lewisborogov.com  
**Cc:** focowles@bestweb.net; Lewispa@optonline.new  
**Subject:** RE: Petrocelli's application for wetlands' permit

Planning Board of Town of Lewisboro:

It has been brought to our attention that a Permit to Build in Wetlands in the Lake Waccabuc region of the Town of Lewisboro by Mr. Petrucelli is being discussed. An above ground septic system is proposed.

Please put on record that we are VEHEMENTLY OPPOSED to the construction ! Our property is on the shoreline of Lake Waccabuc's exit of all the waters of all Three Lakes. The property has been in our family for about 30 years. The noticeable change in quality of the water, at the outlet into the Waccabuc River then flowing into the New York water reservoirs and water supplies, is clearly much worse. The Three Lakes Council can verify the deterioration of the quality. A home with a challenged septic system could only be an additional danger to the lake's water quality - especially flowing into Lake Waccabuc through a narrow inlet.

We sincerely hope the Planning Board will DENY this application in consideration of ruining the quality of Lake water !

Sincerely,

Curtis and Lynn G. Brockelman  
64 Perch Bay Road  
Waccabuc, N.Y. 10597

914-763-5050

7/15/2013

**Lisa Pisera**

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**From:** sara hartley [shartley@berkeley.edu]  
**Sent:** Sunday, July 14, 2013 6:49 PM  
**To:** planning@lewisborogov.com  
**Subject:** Re: Petruccelli application to build

Dear Lewisboro Planning Board,  
I am writing to strongly oppose the application to build on Lake Waccabuc wetlands. My family has lived on Lake Oscaleta for 50 years; heavy rains cause flooding regularly and current storm cycles have been extreme. Petruccelli's plan is a travesty.

The rights of one builder to risk the survival of a unique and valuable lake system must be tempered by reasonable and pragmatic policies for the good of the community and ecosystem. These lakes are fragile and everyone's property depends on a shared effort to prevent needless contamination and risk to lake health. A corrupted septic flow would be catastrophic to our water.

Aggressive builders from distant areas may be naive or ruthless but the wetlands have important protections we count on public officials to enforce. Three Lakes community should be able to trust the sound oversight of Lewisboro in a matter so egregious. Every single lake homeowner will be damaged if Petruccelli is allowed to proceed; his plan is clearly endangering to us all..

Sara Hartley, MD  
36 Twin Lakes Road  
South Salem NY 10590  
914 763-5800

**Lisa Pisera**

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**From:** Anne E. Schneider [aes830@aol.com]  
**Sent:** Sunday, July 14, 2013 6:24 PM  
**To:** planning@lewisborogov.com  
**Subject:** Petruccelli application for variance

We are firmly opposed to the Town of Lewisboro granting Mr. Petruccelli's application for a variance. We need to protect our very fragile ecosystem. Allowing a variance for a septic system so close to the wetlands is not an option.

Anne and Howard Schneider  
44 Perch Bay Road

Sent from my iPad

**Lisa Pisera**

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**From:** Carol Weale [carolweale@optonline.net]  
**Sent:** Sunday, July 14, 2013 6:24 PM  
**To:** planning@lewisborogov.com  
**Cc:** supervisor@lewisborogov.com  
**Subject:** Wetland building discussion - Lake Waccabuc

Carol and Ross Weale  
56 Cove Rd.  
763-6075

Due to a prior commitment, We are unable to attend the meeting concerning the proposed building on wetlands - Lake Waccabuc.  
We are vehemently opposed to even considering something that would be such a threat to our fragile lake environment.  
Carol and Ross Weale

8-1218

To: The Planning Board  
Town of Lewisboro  
PO Box 725  
Cross River, NY 10518

From: Frederick O. Cowles  
111 Oscaleta Rd.  
South Salem, NY, 10590

Re: Petrocelli Project on  
Oscaleta Road, South Salem, NY

May 7, 2013

Dear Chair Kerner and Members of the Planning Board:

I refer to my prior letter of February 12, 2013 raising initial objections to approval of the above Project. Since that letter I have reviewed the file as well as much of the applicable law. This constitutes a more detailed submission of some of the many reasons I believe the Planning Board should not approve Mr. Petruccelli's various applications.

Furthermore, it is my view that NO house and septic system of ANY dimension or number of bedrooms can legally be approved for this lot, thus any further drawings, plans, and adjustments are a waste of Mr. Petrocelli's time (his business) and a waste of the time of the Planning Board, which has been extremely patient.

At least two fundamental problems are caused by immutable geography (which no number of drawings or modifications can overcome or change): i) Too much of the lot owned by Mr. Petruccelli is a wetlands and the location of these wetlands diagonally across the .69 acre lot results in the ENTIRE lot being either wetlands or buffer area as defined by our Wetlands Ordinance. ii) This particular wetlands lot is part of more extensive wetlands which form an integral part of the Lake Waccabuc/ Cross River Reservoir watershed. These facts dictate several reasons for non-approval.

**1) *Impossibility of mitigation:***

Since the entire lot is either wetlands or buffer area, every square foot of disruption/destruction of this lot constitutes a loss of either wetlands or buffer zone requiring mitigation under our Wetlands Ordinance. Our Ordinance states that "For the purposes of mitigation, losses of buffer areas will be viewed as losses of wetlands and watercourses." To be acceptable, such mitigation must strive for a "no-net-loss of wetlands, watercourses and/or buffer areas." Since there is no area on this lot which is NOT wetlands/buffer area, it is mathematically impossible to mitigate destruction of wetlands and/ or buffer areas under the standards required by our Wetlands Ordinance. The Town's Engineering Consultants have consistently listed this problem, which

persists despite a wide and imaginative variety of applicant- proposed "solutions". These proposals are all of the "fig-leaf" variety and do not address the fundamental impossibility of mitigation where the entire lot is either wetlands or buffer area. Even the "conservation easement" creates no additional wetlands/ buffer area to compensate for loss, and affords no enhanced wetlands protection since the buffer and wetlands areas covered by the easement cannot be built or developed in the first place. Replanting trees, using special grass-seed for lawns, use of permeable pavement, etc. are all simply cosmetic. None of these proposals do or can replace with new wetlands the lost wetlands/ buffer area of this project in any of its configurations.

## **2) *Need for substantial land-fill:***

The low-lying and wet nature of the lot dictates that ANY house, driveway and septic system would require substantial amounts of land fill. Our Wetlands Ordinance red-flags the undesirability of land fill in the very first Article 217-7(5) "Findings of Fact" . This provision states "Considerable acreage of ...important natural resources has been lost or impaired by draining, dredging, FILLING, excavating, polluting, and other acts inconsistent with the natural uses of such areas." (emphasis added). This warning is followed by Article 217-5(A) "Prohibited Activities" which lists 6 outright-prohibited activities, the fifth of which is "(5) Deposit or fill consisting of construction and demolition materials, asphalt OR OTHER MATERIALS within a wetland, watercourse or buffer area." (emphasis added). "Material" is a defined term under Article 217-2, as follows: "Liquid, solid or gaseous substances including but not limited to SOIL, SILT, GRAVEL, ROCK, CLAY, PEAT, MUD, debris, and refuse;....." (Emphasis added). Standing alone, the prohibition would be absolute and air-tight, and a legal argument can still be made to this effect. It is recognized that the Ordinance unartfully confuses matters by defining "Regulated Activities" to include "(3) Any form of dumping, filling or depositing of material either directly or indirectly." However, whether absolutely prohibited or merely regulated, it cannot be disputed that under the Ordinance's intent and mission to preserve wetlands, land-filling is NOT a desirable activity. The potential adverse consequences of land-fill in the Petruccelli lot go beyond wetland/ buffer destruction. Approving land-fill in this case is additionally linked to the public safety risks of enabling construction of an above-ground septic and leaching system rising 7 to 8 feet above water table. (The water table is essentially at and sometimes above the surface of the lot.) At first review of the file I was concerned because final septic approval is the jurisdiction of Westchester Board of Health, NYSDEC, and NYCITYDEP, thus seemingly outside the direct control of the Town of Lewisboro. However the Planning Board in fact is holding the ultimate control since the existing terrain/ berm appears not sufficiently high to meet the WBOH requirements. Additional fill would need to be piled onto the buffer area berm or any other lot location for the septic system. Disapproving fill in accordance with our Wetlands Ordinance is within the mandate/ province of the Planning Board. The definition of "PERMIT ACTIVITY" states that "Where similar jurisdiction exists with the New York State Department of Environmental

Conservation or with other state, regional or federal agencies, a permit issued by one of these agencies will NOT be considered a permit for the conduct of activities regulated by this chapter." (emphasis added).

**3) *Not a buildable lot under Lewisboro Zoning Code:***

This lot is zoned R1/2 acre. It has never been legally subdivided under our long-standing Subdivision Law. Its small size and large amount/ location of wetlands do not allow it to meet the required 20,000 sq. foot minimum lot area of a continuous segment of "land likely to be buildable" as required by our Zoning Law. Subdivision approval by the Planning Board is not permissible where it conflicts with other Town laws, i.e. the Wetlands Ordinance.

**4) *Adjacent wetland protection:***

Among the factors required to be considered by the Planning Board in its decisions are the overall wetland protection function of this lot and the impact on neighboring lots. This is not an isolated vernal pool or small "stand alone" hilltop wetland. The lot's wetlands form an integral part of the Lake Waccabuc system. It is a part of the same wetlands owned by a) the Three Lakes Council on one entire border and b) The Town of Lewisboro on another entire border. In fact, as owner of the only intervening wetland lot between the applicant and Lake Waccabuc, the Town of Lewisboro would become the "last line of defense" between Lake Waccabuc and pollution from a building on applicant's lot, including storm water overflows, and any breakdown or flooding of the septic system. Submissions to the file refer to the fact that several residents on Lake Waccabuc depend on the lake for drinking water. The file also contains evidence of past flooding over this lot. This raises an even more immediate and potentially costly public safety issue than simply being part of the New York City reservoir watershed. While the legal liability issues would no doubt be highly complex, the taxpayers of Lewisboro certainly do not need any additional gratuitous expenses of defense/ remediation by the Town of Lewisboro to avoid contamination over and through its own intervening wetlands lot, resulting from Planning Board approval of a house on the Petruccelli lot.

**5) *Risk of lawsuits and potential costs thereof:***

One lesson learned from the successfully defended Manbeck case is that the Town of Lewisboro can best avoid liability by continuing to evenly enforce the Wetlands Ordinance vis a vis ALL applicants, whether resident or non-resident. The "Equal Protection" sections of the Federal Court's decision in favor of Lewisboro high-light the importance of enforcing the Wetlands Ordinance equally against all "similarly situated." Mr. Petruccelli may not be aware of the fact that past and present Lewisboro Planning Boards and wetlands administrators year in and year out on a daily basis endeavor to enforce our Wetlands Ordinance conscientiously in regard to all residents and non-resident applicants. Applicant Petruccelli seems to imply that he is entitled to exceptional treatment, but the Manbeck case demonstrates precisely the opposite, i.e.

exceptions would violate the Equal Protection rights of others. Approval of any activity permits for this property would not only open the floodgates for other wetlands owners seeking similar preferential treatment, but would expose the Town of Lewisboro to potential legal actions by numerous residents whose approvals have been denied, or violations assessed, as well as to an Article 78 lawsuit. While the assigned mission/ responsibility of the Planning Board is not to avoid expensive lawsuits but rather to enforce the Wetlands Ordinance, both objectives are harmoniously served by consistently enforcing the Ordinance.

**6) *No basis for exceptional treatment:***

If, despite the Manbeck case, there is any lingering fear that Mr. Petruccelli for some reason is legally entitled to preferential or exceptionally lenient treatment, even in the context of this particularly wetlands-sensitive lot, let us address this directly. Applicant has both explicitly and sometimes by implication argued that he has some implied right to build on this wetlands lot because a) he bought it and paid taxes on it and/ or b) he thought it was buildable because it was subdivided by deed and/ or c) it was not a wetlands when he bought it, but became a wetlands because of storm drainage from Cove Road. *In regard to (a):* As pointed out in my February 12th letter, Mr. Petruccelli paid an extremely low price (\$8000 or less) for this lot according to the stamp taxes on his recorded deed. At the date of purchase (1982), approved building lots in Lewisboro of equivalent or even smaller size were going for far more. Mr. Petruccelli's tax assessed value of \$2200 for this lot from inception in 1982 and continuing to this day reflects this same depressed value. This assessment is based on the Tax Assessor's correct understanding that the lot is NOT an approved building lot. The May 1, 2013 fair market value equivalent of \$2200 assessed is \$20,295. Mr. Petruccelli's annual taxes have been correspondingly low, starting in 1982 below \$400/year and currently are \$ 562.36. Thus over thirty years, Mr. Petruccelli has added to his initial speculative investment less than \$14,000 in taxes (effectively less if deducted from income tax returns) for a total out-of-pocket of less than \$22,000. Purchase price and annual taxes for 30 years have reflected the fact that the lot is a "sow's ear", which Mr. Petruccelli is now claiming he thought was a "silk purse." *With regard to ( b):* Mr. Petruccelli may in fact have thought the lot is buildable, (despite the depressed price) because it was subdivided by deed, but ignorance of the law is no excuse. The Lewisboro Zoning Code of July 9, 1974 contained wetlands protection provisions, (Article 319) , including regulations of land-fill. The Code was accompanied by an on-record map of wetlands prepared by Frederick Clark with input from the Lewisboro Conservation Advisory Council showing the wetlands to embrace the property purchased by Mr. Petruccelli. The Town of Lewisboro had also previously passed its Subdivision law in 1973, requiring Planning Board approval of subdivisions. Due diligence prior to purchase should also have disclosed the 1971 strongly-worded letter from Jon Fossel, Chairman of the Conservation Advisory Council, precisely involving this same property. More obviously, drive-by personal inspection of the property would have clearly disclosed the low-lying wetland nature of the property, including tell-tale vegetation and swamp



soil, pooling, etc. Regarding lack of due diligence, Mr. Petruccelli is an experienced professional engineer, quite familiar with building and property laws. *In regard to (c):* The allegations that storm-water run-off from Cove Road and/or the Rosenbaum property created a wetland when none existed have been effectively dismissed both by the pre-existing on-record 1974 wetlands map and by the Town's expert wetlands consultants in their report for this file.

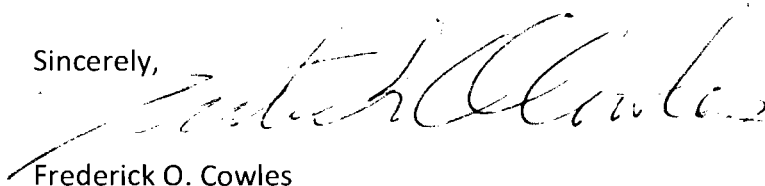
**7) Article 217-8 limitations on Activity Permits.**

Article 217-8 of the Wetlands Ordinance sets out the "Standards for activity permit decisions." Subpart (B) of this Article states as follows: "(B) The Planning Board shall only grant an activity permit for regulated activities if the Planning Board determines that impacts to the affected wetland, watercourse and/or buffer area are necessary and unavoidable, and have been minimized to the maximum extent practicable. FOR THE PURPOSES OF THIS CHAPTER, WETLAND, WATERCOURSE AND/OR BUFFER AREA IMPACTS ARE NECESSARY AND UNAVOIDABLE ONLY IF ALL OF THE FOLLOWING CRITERIA ARE SATISFIED, AS DETERMINED BY THE PLANNING BOARD;.....(4) THERE IS NO REASONABLY FEASIBLE ALTERNATIVE TO THE PROPOSED ACTIVITY ON ANOTHER SITE OR SITE LOCATION THAT IS NOT A WETLAND, WATERCOURSE OR BUFFER AREA AS REGULATED HEREIN" (emphasis added). As Mr. Petruccelli's activity is building a single-family residence in Lewisboro, all is not lost for him. Our Town offers alternate site vacant approved building lots which are not wetlands, as any realtor would happily introduce to him. If, unsurprisingly, the cost of such lots is higher than Mr. Petruccelli's wetlands, that is really beside the point. The Planning Board and Town of Lewisboro should have no legal or policy obligation to maximize profits of land speculators at the expense of our wetlands which do so much to maintain the property values of every resident. It might even be conceivable that Mr. Petruccelli could successfully offer to sell his wetlands at his out-of-pocket cost of approximately \$22,000, and recoup his cost of this risky investment.

Since the above issues address ANY house design or location, early discussion and resolution could potentially save everyone wasted time.

Thank you for your attentions.

Sincerely,



Frederick O. Cowles

To The Planning Board

Town of Lewisboro

PO Box 725

Cross River, NY 10518

Re: Petrocelli Project on Oscaleta Road, South Salem, NY

February 12, 2013

Dear Chair Kerner and Members of the Planning Board

I am Frederick O. Cowles of 111 Oscaleta Road, South Salem. My wife, Tina, and I have lived at this location since October, 1973. Our property is directly across Oscaleta Road from the wetlands owned since 1982 by applicant R. Petrocelli.

While I was aware that the Planning Board had inspected this site some months ago, I had assumed this would lay to rest any prospects for a building permit. Thus I was quite taken aback a little over a week ago when I was made aware through Three Lakes Council that the application by Mr. Petrocelli to actually build on this lot is apparently still under consideration by the Planning Board. Last week I did a quick scan-read of the file, and am in the process of reading relevant Planning Board Minutes and conducting extensive factual and legal due diligence preliminary to making a fuller submission to you.

For now, let me go on record as stating that when I purchased my property in 1973, the clear visual evidence on the ground that this is a wetlands was apparent. Legal due diligence also disclosed that the property (at that time part of a larger lot owned by Anthony Cuoco) was legally mapped as a wetlands. I therefore purchased on the assumption the property would not be buildable, and until now that assumption has proved valid. A Planning Board approval to subdivide and build on this property would impair the monetary and aesthetic value of my property.

Predecessor owner Anthony Cuoco (1970-1977) brought in land fill (possibly illegally, which is being checked out) in an attempt to split his property into two buildable lots, but either never sought nor ever was able to obtain Planning Board approval to subdivide. Then he divided by deed only, and sold the two lots off to different purchasers.

When Mr. Petrocelli purchased his part of the property, it had - as you know - been subdivided by deed only, without the required Subdivision approval of the Lewisboro Planning Board. The stamp tax on his deed is \$4.40, indicating a purchase price of \$8000 or less. I am personally aware that as early as 1975, building lots of 1/2 acre in our neighborhood and the town in general were going for substantially more, even over twice as much. Mr. Petrocelli asserts that he has some sort of entitlement to build on this property because he has paid taxes on it. I do not believe that assertion is legally sound. Furthermore, as a professional engineer, he of all persons should have known that legal due diligence would be wise before he purchased, and if he conducted due diligence, would have known it was not approved as a buildable lot when he bought it.

In sum, this records my opposition to any house on this property. The small amount of buildable land might justify a small garden shed up tight to Oscaleta Road and close to Harold Rosenbaum's house. Anything else defies gravity, common sense, and Lewisboro's Wetlands Ordinance. Approvals would impair our property values. More broadly, approvals would provide a terrible precedent in dealing with all future developer attempts to impact all the many other wetlands in Lewisboro. As our wetlands and lakes are a core real estate value enhancer, this matter impacts every resident.

Thankyou for your attentions.

Sincerely,

Frederick O. Cowles

< p>

Town of Lewisboro Planning Board,

PO Box 726,

Cross River, NY 10518

Re: Petruccelli Project -Oscaleta Road, South Salem

Dear members of the Lewisboro Planning Board,

It has come to my attention that Mr. Petruccelli, who has presented his plans to you to build a house on the lot next to mine, has told you that he spoke to me, and that I said to him that I had no objection, and in fact wanted him to do so. This is not true.

I did have a brief face to face talk with him when I saw him last summer with about 7 or 8 members of the town planning board on his property, going from place to place with blueprints. When it became apparent to me that he might soon be approved, I approached him, extended my hand, and said that if he was going to be my neighbor hostilities should cease. I did this because he had been hostile on many occasions in the past and the tension because of that was eating away at me and my wife Edie. (When I first encountered him many years ago 5 feet from my property line, he startled me by shouting that he was going to build a house abutting mine.)

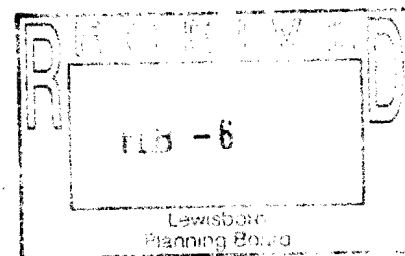
I heard that he told you that wetlands on his property are because of the run off from my property. How ridiculous. And by the way, I asked his helpers/workers/rep/s/assistants to leave my property (shortly after the day referred to above when I saw members of your board), when they congregated with tools around the drainpipe referred to above. They refused until I threatened to call the police. He also told you, apparently (and told and wrote me a few years ago) that my water drainage runoff was causing wetlands on his property, an assertion which is patently absurd.

In sum, not only would I NOT welcome a house so close to mine, but I consider it ridiculous that any house could be approved for this swamp, even it were to be filled in by many more tons of land-fill.

Now if the house IS approved by you, please have it built according to his plan which places the home furthest from my property. To have it so close to my deck and property would look absurd to any passersby, and would be an unnecessary intrusion on both my family and the purchaser of the house. It would also lower the appeal for anyone to purchase it as well as mine when it goes on sale.

Thank you  
Harold Rosenbaum  
2 Cove Road

South Salem, NY



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2/19/13 Agenda