
December 14, 2009

Sent Via Fax &/or Email

Town of Lake George > Old Post Road - Lake George, New York 12845

- Lou Tessier (Town Supervisor) & Frank McCoy (Supervisor Elect)
- Robb Hickey (Code Enforcement Officer)
- Keith Hanchett (PB Chairman), Scott Wood (PB Committee Chair), & Tom Jarrett (T. Engineer)
- All Members of the Town Board, Planning Board, and ZBA (& Chairman John Santiago)
- Consolidated Board of Health (CBH)

* This Letter was also circulated to the APA, NYSDEC, LGPC, WCBD, & NYSDOH...because they should know.

Subject: Casale Site (SBL 251.10-1-28) > Diversion from Approved Site Plan (SP Application # 33-2007)

Dear Town of Lake George Representatives and Regulatory Agencies:

As many of you know, we have expressed concerns numerous times in the past regarding the Town of Lake George (TLG) Planning & Zoning practices. Now we recently learned that the TLG received several complaints about construction work performed on the Casale site...a steeply sloped property situated directly adjacent to English Brook, a waterway that feeds directly into Lake George. Not only does site construction appear contrary to the approved Site Plan, the Erosion Control Plan was not followed. As a result, a Stop Work Order (SWO) was recently issued. This fragile slope is forever altered, to the potential further detriment of the waters of Lake George. We ask...how & why could this have occurred?

One complaint was presented in a November 10, 2008 letter from the office of the Lake George Waterkeeper, which informed Robb Hickey about: 1) improperly installed silt fences; 2) apparent lack of required 24-hr silt fence inspections (condition of Site Plan approval); 3) improperly placed "limits of disturbance" fencing (appeared to be installed further down slope, increasing disturbed area beyond that approved); and 4) amount of earth cut & removed from site also expanded beyond what was approved. The letter also informed the TLG that four feet of fill was removed from the area that was proposed for the site's wastewater treatment system. Included in the circulation of the Waterkeeper's 2008 letter were TLG Planning Board members (& Chairman), Lou Tessier, NYSDEC, APA, & the LGPC.

On November 17, 2009, we submitted a complaint to the TLG concerning construction activities that appeared to significantly conflict with the approved site plan. In addition, we informed the TLG that sections of silt fences were buried & stormdrains were left unprotected from sediment-laden runoff. We also notified the TLG of potentially significant public safety concerns related to the presence of an unprotected drop off situated next to a public road in a residential neighborhood. The drop off was caused by an excessive amount of earthwork that appears related to construction of a driveway. The driveway (which was not part of the approved Site Plan) provides access to what appears to be a basement level garage.

This brings us to the very center of the issue. What was constructed on the site appears to be entirely different than the June 16, 2008 Site Plan reportedly approved by the TLG. A Stop Work Order (SWO) was finally issued by the TLG on November 19, 2009. Copies of our complaint & the Waterkeeper's (both with supporting photographs) are on file at the TLG.

It appears that the site work as completed (not as approved) required a significant amount of earthwork on the steep slope where almost no disturbance was to have occurred (per approved plan). The amount of earthwork brings into question the location & design of components of the site's stormwater & septic systems.

Where are the existing system components, as they do not appear to be what is indicated on the approved Site Plan? What are the separation distances between English Brook and the components of the site's stormwater controls and septic system? Were any revised Stormwater Plans approved by the TLG to reflect the site work as constructed (vs. as approved). Were any required variances granted by the NYSDOH & TLG for separation distances (between septic, stormwater, brook, etc.). Does the TLG have the authority to grant variances from other regulatory agency requirements?

Additionally, the height of the home appears excessive, especially when taking into consideration the reported height of the two retaining walls (10' & 16'). Both walls are situated adjacent to the house and are of considerable length. Retaining walls of this size & location require site plan review and may even need variances. The retaining walls and driveway do not appear to be part of the TLG approved site plan. What Plans were submitted to the Warren County Building Department (WCBD)?

What else was altered from the TLG approved plan? Unless we stand corrected, infrastructure designed to protect the health, safety and welfare of the community and the environment require certification by a licensed professional. The site as constructed is an alteration from the approved plans, which were signed by a Professional Engineer who certified the design of the Approved Site Plan (not the site as constructed). What a shame, no wonder the lake is going green.....and the APA just accepts the "word" of the TLG that there are no issues when it comes to Planning or the TLG's APA approved Zoning Codes and Enforcement!

We recollect that English Brook was identified by one Board Member as "Critical" to Lake George & as such needed to be provided significant protection.(???). This construction travesty along with the Village/Town's sewage plant issue just re-enforces our position that a moratorium is needed in the TLG until such time that ambiguities with the Zoning Codes, deficiencies with Planning & Enforcement, and sewage issues are addressed and corrected. If the TLG continues on their current path, it could also be time for the APA to revoke the Town's APA approved Land Use Codes.

Of additional interest, we noted that TLG Supervisor Lou Tessier “argued” in a recent Post Star Newspaper Article, Town halts construction on new home (11/27/09 Edition, Page B-2) indicated that “it was Hickey (Town’s Code Enforcement Officer) who discovered the violations at the site during a regular inspection.” Yet, we were informed that the TLG “has no inspection records for this project.” Also, when did Robb Hickey “discover” the “violations.” As previously indicated, the site conditions are documented to be contrary to the approved Site Plan (for well over one-year).

How could Robb Hickey possibly not see what was occurring during his “regular inspections?” Why would he and Scott Wood (Planning Board Committee Chair) not take action when this issue was brought to their attention? What was their incentive? How could the project progress to the extent that it did...with no enforcement?...for over one-year! Not only are we upset and angry, but the entire Planning Board & representatives of other regulatory agencies, should be as well...How & why did this fiasco happen? We are absolutely amazed that not one outside regulatory agency stepped in and put a stop to this project, or at least inquired about it, before so much damage was done.

The deficiencies of the constructed project seem to primarily rest with the TLG due to an apparent failure of regulatory oversight and lax enforcement. We would think that the Town of Lake George should be asked some questions, including those previously mentioned above. Additionally, we wonder how a June 16, 2008 Site Plan was approved when conditions were attached to the Approval during a July 1, 2008 Planning Board Meeting? In fact, a July 18, 2008 from Dennis McElroy (site engineer) discusses the July 1st meeting and references the “conditions of approvals” and states the “The Site Plan has been revised...”

We also ask, how and why did this happen and what is being done to prevent this type of transgression from ever happening again? In the meantime, it is imperative that the site conditions be corrected to protect English Brook & the waters of Lake George. Corrections could conceivably include removing all the so called “site improvements” & restoring the site.

What really worries us is that we feel that this is not an isolated case of shenanigans with the TLG.

We thank you for your attention to this very important matter. We do hope that you now begin to take the necessary actions to protect the quality of our waters, our area, and the public’s safety.

***** SIGNED COPIED FAX TO THE TOWN OF LAKE GEORGE *****

Respectfully submitted by Mike & Dana Seguljic
433 Diamond Point Road – Diamond Point, NY (668-3404 or 9782)