37th Annual BKAAA Cleanup

Frank Coviello’s hands are full!

In the weeds

It’s a family affair

Martin and Frances Nankin

All Photos by Kevin Kreischer
MAILBAG:

March 19, 2018

Dear BKAA,
Thank you for your support of our Green Amendment program. To make a green amendment a reality we need to spread the word widely! In that regard, it was helpful to send out the BKAA Alert. Thanks also for bringing refreshments. A photo is on its way for your next newsletter! (Photo on page 29)

Sincerely,
Peggy Johansen,
Mamakating Library Director

April 30, 2018

Dear Friends,

(EDITOR’S NOTE: The BKAA donates to the Community Church of Wurtsboro’s Food Pantry for use of the Church’s Friendship Hall for our Ravensbeard programs and Nature Watch orientations).

On behalf of the Community Church of Wurtsboro’s Food Pantry, I would like to thank you once again for your two donations of $100.00 to our food pantry. Without organizations like yours, we would not be able to serve all the families that come to our pantry. Your donation is very much appreciated.

As you are well aware we are very active in our community serving those in need of groceries to feed their families. Thank you for taking an interest in our Food Pantry and being aware of the needs of the less fortunate. Once again, I would like to thank you for your generosity.

Sincerely,
Marie Bryant
Financial Secretary

May 20, 2018

Dear BKAA Board and Mr. Abate,

Thank you for awarding me the Catherine Abate Memorial Scholarship. It is a great honor to be selected for this prize. Your generous gift brings me one step closer to achieving my dreams. I am grateful for having been a part of this Association (BKAA) for so long and thank you again for this award.

Sincerely,
Dylan Broder

May 20, 2018

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Sincerely,
Dylan Broder

CONTACT THE BKAA
Paula Medley 845-754-0743, 10 a.m. to 8 p.m.  email: info@thebashakill.org  website: www.thebashakill.org

CONTACT THE DEC

Environmental Conservation Officers (ECO’s) & Forest Rangers Covering the Bashakill WMA for the NYS DEC

ECO’s:  Officer Ricky Wood 845-665-5637 (cell)  
Officer Thomas Koepf 845-612-6099 (cell)


Call 24-hour DEC Law Enforcement Dispatch at 1-877-457-5680 if the Officers are not available.

The Guardian is published quarterly by the Bash Kill Area Association Inc., PO Box 1121, Wurtsboro, NY 12790.

President: Paula Medley  •  Vice-President: Anita Altman  •  Treasurer: Monique Lipton

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Nature Watch Co-Leaders: Maryallison Farley, Kevin Keller & Cathy Liljequist

Guardian Editor: Paula Medley

Mission Statement: Since our founding in 1972, our mission has been to protect the Bash Kill Wetlands and surrounding area from ecological degradation, to promote education and respect for the environment in general, and to preserve the beauty of the area.

We welcome new members who are interested in protecting the environment. Dues are $10 per person per year. BKAA is a not-for-profit corporation and donations are deductible to the extent allowed by law.

website: www.thebashakill.org  •  e-mail: info@thebashakill.org
2018 BKAA Calendar of Events

All activities free and open to the public!

Saturday, June 16, 9am
Natural History Walk with Jack Austin
Stroll 2-3 miles on level terrain with Basha Kill educator Jack Austin as you see and listen to what’s nesting, growing, and maturing. Bring binoculars, insect repellent, and wear good walking shoes. Meet at the Stop sign parking area off Haven Road (From Route 209, cross Haven Road bridge and take first left, just before Haven Road ends at South Road). Visit to Mamakating’s new Environmental Center included. To register and/or for more information, contact Jack at cell# (845) 649-8720.

Friday, June 29, 9 pm
Moonlight Walk with Gary Keeton
Amble along Haven Road and the Railroad Trail. Enjoy moonrise over the ridge as you discuss the area’s natural history. Meet at the Haven Road DEC parking lot (on left coming from Route 209). Contact Gary at (845) 386-4892 for additional facts.

Saturday, July 7, 10 am
History of D&H Canal with Gary Keeton
Join Gary for a walk through time. Ever wonder about local stone walls and foundations? Curious about how people farmed the rocky soils or the relationship between the Basha Kill and Pine Kill? Bring binoculars and insect repellent. Oh, and learn about the canal, too! Meet at the DEC access road on Route 209 across from the Hometown Deli in Westbrookville. Bring binoculars. Contact Gary at (845) 386-4892 for particulars.

Friday, July 27, 8:30 pm
Moonlight Canoe/Kayak Adventure with Scott Graber and Mike Medley
Experience the Basha Kill from a unique perspective! Bring your own vessel and binoculars. Meet at South Road Boat Launch. Must register and check trip’s status with Mike at (845) 754-0743.

Saturday, August 4, 5:30 am
Sunrise Walk with Gary Keeton
Rise and shine! Enjoy the Basha Kill’s wonders from a different view. Bring binoculars. Meet at Haven Road DEC parking lot (on left coming from Route 209). Call Gary at (845) 386-4892 for information.

Sunday, August 12, 10 am
Reprise of History of the D&H Canal with Gary Keeton
Join Gary for a walk through time. Ever wonder about local stone walls and foundations? Curious about how people farmed the rocky soils or the relationship between the Basha Kill and Pine Kill? Oh, and learn about the canal, too! Meet at the DEC access road on Route 209 across from the Hometown Deli in Westbrookville. Bring binoculars. Contact Gary at (845) 386-4892 for particulars.

Saturday, September 22, 10 am
Canoe/Kayak the Basha Kill with Scott Graber and Mike Medley
Join naturalists Scott and Mike for a late season venture on this first day of autumn. Bring your own vessel and binoculars. Meet at the South Road Boat Launch. Call Mike at (845) 754-0743 to register and for more details.

NEW EVENT - Friday, October 12, 7-9 pm
Free Public Star Watch by John Kocijanski of the Catskills Astronomy Club
Bring scopes and/or binoculars. Meet at the South Road Boat Launch, across from Bashakill Vineyards. To register, call John at (845) 798-8087. For event updates, visit Catskills Astronomy Club’s Facebook page. Rain date the following day.

Sunday, October 21, 9:30 am
Hike the Shawangunk Ridge with a NY-NJ Trail Conference Trail Maintainer.
Event co-sponsored with Trail Conference. Moderately difficult hike, lasting 4-5 hours. Wear comfortable sturdy shoes and bring water, lunch and binoculars. Meet at the D&H Canal Kiosk at the Pat Moore Memorial Picnic Grove on Sullivan Street in Wurtsboro. Must register by calling Paula at (845) 754-0743.

Sunday, November 4, 9 am
Hike the Minisink Trail at Huckleberry State Forest in the Town of Greenville with Mike Medley
Join Mike on a beautiful 5 mile loop hike on the Shawangunk Ridge. Wear comfortable sturdy shoes and bring water and lunch. Bring binoculars. Carpool or travel in a caravan led by Mike. Meet at South Road fishing platform (Westbrookville end) at 9:00am. Absolutely must register for this trip by calling Mike at (845) 754-0743.

MAILBAG continued from page 2

Thank you so much for funding this generous scholarship! I am honored to have been selected and hope to continue my environmental education in college, advocating for change that would continue Catherine Abate’s legacy. Again, this award is greatly appreciated as I move on to college and begin my future.

Thank you!
Colleen Baer
37th Annual BKAA Cleanup

Paula Medley

Although cold morning temperatures, worsened by gusty breezes, greeted volunteers at the 37th Annual BKAA Cleanup, warmer, more seasonable conditions prevailed as the day progressed, contributing to a productive, enjoyable event.

70 participants registered with Frank and Nora Brusinski, receiving door prize tickets from Linda Lou Bartle, and assorted garbage bags, along with vital recycling instructions, from Jackie Broder and Monique Lipton. Gathering recyclables was easier this year, as metal, aluminum, glass, and plastic entered one wastestream. Attendees next advanced to Paula Medley’s station, where Paula divided the crowd into manageable groups for assignments throughout the wetland ecosystem, ensuring maximum resource coverage.

Experiences varied on refuse amounts encountered. Some workers confronted minimal trash, while others faced the opposite, like Joe Giglio’s crew of Stephen/Susan Erny, Scott Fairbanks, and Michael Medley. They removed three truckloads of rubble from the D&H Canal towpath collected there during last year’s endeavor. Then, a locked gate prevented vehicular access to the trash. This time, the BKAA obtained a key from DEC, facilitating entry and retrieval.

The recycling operation was ably managed by Fred Harding, Jackie, and Monique. Once again, Fred’s trailer was filled with bins of metal, aluminum, glass, and plastic for later transport to the landfill. Thanks, Fred, for your yeoman efforts and kudos to Rock Hill’s Thompson Sanitation Corporation for annually donating an indispensable receptacle. Also, we gratefully acknowledge Mamakating’s Highway Department for carting away numerous tires.

The obligatory group photograph was shot by Kevin Kreischer, the event’s official photographer, who recorded myriad cleanup images. President Paula Medley commended everyone for their exceptional accomplishments, particularly recognizing Marilyn and Bob Fiore for years of lovingly organizing the affair’s sumptuous dining extravaganza. This occasion was particularly bittersweet, since it signaled the Fiore’s retirement from cleanup responsibilities as they recently moved to Pennsylvania. Marilyn and Bob, you are the BEST!!!

Throughout this function, many shopped at artist Lilith Jones’ table, purchasing gorgeous tees and notecards featuring Lilith’s exquisite illustrations from the Basha Kill Field Guide. Likewise, they perused BKAA mugs and publications from Christine Saward’s offerings.

While al fresco dining, individuals networked and socialized, enjoying balmier weather. Finally, many unique door prizes were drawn, donated by Arlene Borko, Linda Mabie of Linda’s Office Supplies, Goshen and the Medleys.

In conclusion, our 37th Annual Cleanup was extremely effective as widespread litter was eradicated amidst a convivial atmosphere that fostered friendships and renewed old acquaintances. See you next year!

Thanks to the following, whose hard work contributed to a highly successful cleanup. We regret any errors.


Summer 2018 New Members & Donors

Summer 2018 New Members
Diane Day — Dr. Timothy Deschenes — Tracey Kelly
Theresa Ann & Keith R. Jones
Thomas Luyster — Kathryn & Joel Murphy

Summer 2018 Donors
Ann Cartwright — Diane Day
Stephen & Susan E. Erny — Paul Gamer
Mary Ann Geary-Halchak
Joe Giglio — Moe Kornbluth — Monique Lipton
Nicole Slevin — James R. Van Gelder
The 16th season of the BKAA’s Nature Watch program kicked off with the Annual Training for Volunteers on Saturday, April 7th. Keynote presenter Scott Rando, a nature columnist for The River Reporter, showed some of his wonderful photos to illustrate the growth and development of bald eagles, while also giving us a look at bald eagles in the region. The participants, both new and long-time volunteers, benefited from Scott’s knowledge of these raptors, as well as of his general knowledge of nature. Cathy Liljequist and Kevin Keller, Nature Watch Co-Leaders, then reviewed the nuts and bolts of the Nature Watch program. Kevin and volunteer Maureen Bowers followed up with a short presentation illustrating how to interact successfully with visitors. Finally, new volunteers got hands-on tips from Kevin about setting up and using the spotting scopes. Then those folks made their way to the boat launch to see where we set up and to view the eagle nest.

A smoothly run Training like this year’s event depends on the efforts of many people. Don Kenny and Kevin Keller handled the set-up of the room, while Michael Dunckley joined Don to do the take down. Our Registration table was staffed by Cathy Liljequist, Eileen Lake and Frances Nankin while bakers Donna Stanton and Eileen Lake kept volunteers happily snacking with their homemade treats. Michael Dunckley also took photographs of the Training (see p. 6). Key resource people, Nathan “Nate” Ermer, NYSDEC Wildlife Biologist and Manager of the Bashakill Wildlife Area, and Gary Keeton, local naturalist and historian/archaeologist, kindly joined us to handle specific questions on the spot. Many thanks to all!

Shortly after the Training in early April, we discovered the sad news that, although a hatch occurred in the long-time bald eagle southern Basha Kill nest, something went wrong. We began to see that the parents were not at the nest where they needed to be to keep the chick or chicks warm or to bring food to them. It could have been the work of a predator, such as a great horned owl, or simply that the young were not healthy and viable. In any event, we are happy to see that the pair has remained in their territory and are frequently visible (see p. 6 for Linda Kantjas photo). It reminds all of us in Nature Watch that there is so much wildlife to see and talk about at the Basha Kill in addition to observing an active bald eagle nest. This season Nature Watch volunteers have already been at the boat launch for 7 week-ends (when the weather cooperates) and we’ll be there for another 3 week-ends through June 24th. Come and join us for good viewing and conversation about the Basha Kill. We can direct you to the newer bald eagle nest north of Haven Road where two eaglets are thriving this year!

TELL A FRIEND ABOUT THE BASHA KILL AREA ASSOCIATION!

Have your friends fill out this coupon for membership or more information:
P.O. Box 1121, Wurtsboro, NY 12790

Yes, I’m interested in the environment and wish to become a member of Basha Kill Area Association. Enclosed is:

____ $10.00 for individual membership  _____Other Donation  _____Please send more information

Please make checks payable to: Basha Kill Area Association

Name __________________________________________________ Phone ____________________________

Address ________________________________________________ Email _____________________________

(for action alerts)
Nature Watch volunteer Mary Ann Geary-Halchak pointing out an eagle. Photo by John Kocijanski

Southern nest bald eagle pair perched on top of dead tree behind nesting tree island, May 2018. Photo by Linda Kantjas

A visitor using one of the Nature Watch spotting scopes. Photo by Gef Chumard

Nature Watch In Action

On break at the annual Nature Watch training, keynote speaker Scott Rando at back talking with Gary Keeton. Photo by Michael Dunkley
Illustrations from James Van Gelder’s 2017 Nature Watch Journal
More Van Gelder Illustrations
Tick Talk: It’s Lyme Time

Justina Burton

Last summer after three Urgent Care visits for tick removal and antibiotics, I resolved to never go into the woods again, not a great solution for someone who loves the outdoors. So instead, I armed myself with information by attending Tick Talk: It’s Lyme Time at the Mamakating Library, a class on ticks and Lyme disease by Jill Hubert-Simon, Sullivan County Public Health.

She reviewed:

- The types of ticks, diseases, their spread and incidence.
- How to protect yourself using insect repellents, clothing, heat, and showering.
- Protecting children and pets.
- How to keep our yards clear.

Early detection and diagnosis, including proper tick removal and common tick folklore to ignore.

It was a well done informative session. Here are some web sites that cover what we need to know to co-exist safely with ticks.

https://www.health.ny.gov/diseases/communicable/lyme/
https://www.cdc.gov/ticks/index.html
http://www.tickencounter.org/ticksmart
https://thebashakill.org/

I’ll review how to safely walk across a lawn, hike the Basha Kill trails, and climb our ridges.

Ticks and their diseases have become a plague. Cases of Lyme disease have tripled since the early 90’s. In Sullivan County, only 20% of cases are investigated and reported. So in 2016, we actually had 505 cases per 100,000 residents. There are multiple kinds of ticks and diseases and you can be infected with multiple diseases from one tick bite. These can be nasty, hard to detect, and chronic.

Where are ticks found?

Ticks are found in shady moist areas, in lawns and gardens, the edge of woods, around stone walls, in tall grass or low bushes and usually 18 to 24 inches off the ground. They don’t fly or jump or drop onto people.

Cover up

Wear closed shoes and light clothes so you can pick off the ticks. Tuck long pants into socks; tuck your long sleeved shirts into your pants and wear a hat. Use insect repellent, like Deet, Permethrin impregnated clothes and tested Botanical products.

Within two hours of arriving home, you and the children should disrobe, throw your clothes into a hot dryer, and take a shower. Remember, ticks gravitate to shady moist areas in the yard or on our bodies.
Your pets should also have flea and tick repellents, with dogs vaccinated against Lyme. When you get home, also check pets for ticks.

The yard
A fence to keep out deer is ideal, with a 3 foot buffer strip on the inside without greenery. Keep your lawn mowed to 3 inches high. Walk in the hot dry areas ticks don't like. Compost mulch and remove brush piles to faraway corners.

The car
When you drive home from a hike, wipe down the seats using a delinter. A tick can survive for days in an empty car.

Tick Removal
Don’t irritate the tick by trying to suffocate it, using Vaseline or nail polish or by burning it off. These all make the tick burrow deeper.

Instead, using a pair of skinny edge tweezers, grasp the tick’s head as close to the body’s skin surface as you can and pull straight up. Kill the tick and date/store in alcohol or packing for 30 days. You will need it for testing if you develop tick disease symptoms. Wash, treat the site with an antibiotic ointment and cover with a band aid.

If you develop symptoms: chills, headaches, fatigue, muscle aches, swollen lymph nodes or a rash, see your doctor.

The more we know, the better we can deal with this plague. While a solution is not imminent, there is work being done on vaccines for us, and the deer and mice that spread ticks.

“In Memoriam”

With profound sadness, the BKAA announces the passing of valued member:

Adrienne M. Butvinik
Adrienne, an amazing artist, was a long-standing, loyal BKAA supporter.
The BKAA sends heartfelt condolences to Adrienne’s family and friends.

Praise for the Environmental Education and Interpretive Center

Susan & Stephen Erny

So many times we’ve climbed Haven Hill
After gazing on the glory of the Basha Kill
We turned and trekked down South Road
Past this property, once our friends’, the Harings, home

Our Town had vision, an environmental dream
When they bought this house, complete with a stream
Where unique events and meetings can take place
In a quiet, intimate, forested space

It’s great to have leaders who understand
The value and importance of protecting the land
With wetlands nearby and trails to walk down
This center will be the gem of our Town

We love living here
It’s so beautiful
And best of all
Are the good people

 TICK TALK continued from page 9

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“Let’s be careful out there.”*

*Hill Street Blues
Japanese Barberry Removal Project Commences At Basha Kill
On April 14, four intrepid BKAA volunteers, wearing heavy gloves and armed with loppers, mattocks, and saws, labored for three hours to eradicate the invasive Japanese Barberry from one quarter of a pilot plot established at the Wildlife Management Area. Weeks later, steady precipitation canceled a second scheduled work session. We only need 10 individuals to complete the job so, if interested, contact Paula Medley, evenings at (845-754-0743).

Special thanks to Kim Ashley, Dave Colavito, Don Kenny, and Diane Wanser for their hard work and commitment during Phase 1 of barberry obliteration.

Two Recent Open Space Institute Acquisitions Link the Bashakill Wildlife Management Area (WMA) to the Shawangunk Ridge
Open Space Institute just purchased two parcels that expand the WMA and connect it to the Shawangunk Ridge, another critical step in unifying the 71 mile Shawangunk Ridge Trail from Rosendale, Ulster County to High Point State Park, New Jersey. (See map on page 16)
SUNY Orange Celebrates Earth Day

Kirsten Gabrielsen,
SUNY Orange Sustainability Coordinator

(Editor’s Note: Christine Saward, who managed the BKAA’s informational table, stated, “SUNY Orange Earth Day was attended largely by students and staff, who took literature while I discussed the Basha Kill’s location and recreational opportunities.)

SUNY Orange’s 2018 Earth Day observances were held at both our Newburgh and Middletown campuses. Both campuses, on different days, celebrated with several student clubs (Biology, Math, Engineering, Architecture, Dental Hygiene, Outdoors Club, and Board of Activities). Additionally, Cornell Cooperative Extension Master Gardeners, 511NYRideshare/Clean AirNY, Monhagen Watershed Group, Protect Orange County and other environmental groups, including the Basha Kill Area Association, participated. Although we had to move activities inside this year, we experienced a great day with lots of visitors and ample opportunities to share information and knowledge. Our annual Earth Day plant sale again raised funds to support continued growth of our Educational Garden projects at both campuses. To date, we have installed the Native Woodland Garden, a Xeriscape Garden, two Rain Gardens, and the new Devitt Center Wetland Garden. These are maintained by volunteer faculty, staff, and students.

While Earth Day presentations comprise our biggest and most visible sustainability related activities, the College’s Sustainability Committee and Coordinator work throughout the year on programs furthering the College’s mission of lowering overall carbon footprint. This year, various ventures have centered on reducing carbon emissions related to transportation. To that end, a recommendation to add an additional shuttle bus to the existing service between our Middletown and Newburgh campuses is being forwarded to Administration. Surveys indicate that a large group of our College community, both students and employees, would use the shuttle service more frequently if hourly runs were available, thus decreasing need to use single occupancy vehicles. Also, the College promotes ride sharing via inter-college portals allowing student to student and employee to employee rideshare searches. Because of our commitment to cleaner air, SUNY Orange is participating in Clean Air NY’s Campus program. In partnership with 511NY Rideshare, Clean Air NY helps students and employees find easy, affordable and sustainable alternatives to driving alone. As a Clean Air NY Campus, we pledge to inform students, faculty and staff about air quality and make the switch from driving solo to carpooling, vanpooling, taking transit, or biking to school/work.

If you would like further information on any items mentioned in this article, please contact me at kirsten.gabrielsen@sunyorange.edu or visit www.sunyorange.edu/gogreen.

Blustery Earth Day Celebration at SUNY Sullivan

Kathy Scullion, Instructional Assistant, Division of Science, Technology, and Mathematics

Once again this “spring,” Mother Nature reminded us who is in charge as we held our Annual Earth Day Celebration amidst snow squalls and near freezing temperatures on April 19th. However, the blustery weather did not deter our dedicated exhibitors, SUNY Sullivan staff, or our young guests from the Monticello school system from participating in another memorable event.

More than 200 Monticello fifth graders enjoyed a live wildlife show, studied microscopic life in compost and pond water, visited exhibits, and braved the elements to tour Hope Farm and see the wind turbine, solar array, and geothermal system. The Earth Guardians Crew from RJK Middle School had their own table to spread the word about climate change and other environmental issues. They brought great energy and enthusiasm to the program, and we hope they left with information and memories that will influence their future actions.

As always, we are grateful to the BKAA and all the other outside organizations who make our Earth Day activities so successful: Sullivan County Audubon Society, Hope Farm (New Hope Community), Catskill Watershed Corporation, Frost Valley, National Park Service, Sullivan County Recycling and Public Health Services, Hancock Permaculture, and Morgan Outdoors to name a few. SUNY Sullivan’s Earth Guardians, Garden Club, and Sully Bees managed tables as well.

We are also proud to have an amazing campus Sustainability Committee to coordinate this affair as well as support from the campus community for our sustainability initiatives. SUNY Sullivan is committed to environmental responsibility in our operations, curriculum and outreach. Each year, our Earth Day festivities present opportunities to showcase our progress and share our partners’ expertise.
recharge for a new day. Each year, birds arrive in flocks from the South, where they spend winters feasting on bugs, seeds and berries. Now, they are feeding-up and preparing for migration to their nesting grounds in the Northeast.

In species such as robins, Red-Winged Blackbirds, and hummingbirds, males appear first to stake out territory that is not only attractive to females but rich in food supply to raise their precious offspring. Then the territorial wars begin. Some birds return to their birthplace while others are chased away to find their own homes. Some are monogamous, while others sample many fathers, which brings a rich gene diversity to the table. According to the species, some prefer hatcheries where hundreds of nests are placed close together. Others desire the privacy of their own backyards.

Most birds of prey and waterfowl retain a lifetime mate, sometimes parting for a while, but usually meeting at the time of ovulation. If a mate should die or not return, the urge to reproduce is irresistible. The bird’s hormones then direct what will happen next, which is choosing a new mate. Some birds may spend hours or days, replete with rituals, to entice attractive females, while others fall in love immediately with multiple partners. I find couples particularly fascinating. Some build elaborate structures and nests to impress a future suitor, while others dance, bob, weave, buzz, and vocalize to display their handsomeness to females. A male in mating plumage is in top condition and must prove he’s a healthy specimen to woo his mate. Courtship is a role that most species enjoy, even the large-brained types.

Birds of Paradise are especially fascinating with special plumage of rich colors they flash in the sunlight; others possess long lyre tails that are waved for attention. Then, there is the bowerbird who steals brightly colored blue items and selectively places them around his elaborately structured nest. Courtships bond birds as couples for the sole purpose of reproduction.

While less attractive, camouflaged females incubate eggs in 10-34 days, the exception is the Albatross family, whose eggs hatch in 80 days. The males also have duties; some hunt for food to feed the family or help to incubate while the hen searches for a meal. Others patrol their territory to prevent potential danger, while a few abandon the female altogether, such as male hummingbirds that never see their offspring.

Wild birds are just that, WILD! They are not used to confinement and will accomplish the impossible to free themselves. Usually, the only time they are grabbed is to be eaten, so holding them for an examination is akin to death. They are magicians in escaping. Special wire-free caging protects their feet, beaks, and feathers during recuperation. A release cannot happen until birds are in perfect condition.

When brought to the clinic, birds may refuse to eat because their stress levels are too high. In this case, we recreate a habitat where they feel safe and secluded in order to enhance healing. Others, like the owl family, require total solitude, no talking or touching, being as far from visible human activity as possible to eliminate stress. Once species is determined, we establish the optimum environment and replicate the food they normally eat in the wild. Studying its natural history, then, is imperative to working with a wild bird. Also, we constantly modify bird chambers, checking for predators that try to dig under the enclosures. Additionally, we make cages handicapped accessible for those healing from wing injuries.

Birds in our possession are licensed through the New York State Department of Conservation and U.S. Fish and Wildlife Service and deemed unreleasable if permanently injured. For instance, Sequoia, the great-horned owl, arrived at three weeks old with a broken elbow and wrist. After x-rays, the vet said this bird would never fly. He was right, but that still did not guarantee she would be an appropriate candidate as an educational bird. Not all birds have the temperament to be in the spotlight, so ensuring a bird is comfortable with people and being handled is critical to a good educational program. Birds with joint injuries are not releasable, since these injuries are not yet fixable and, unfortunately, there is minimal funding for wildlife research, like recreating joints in birds, but hopefully we will discover solutions soon.

So, what can we do to help our avian neighbors thrive?

- Put out water in a birdbath or develop a small fish pond. Birds, especially, like running water and even the smallest water fountain attracts them.
- Do not cut down dead trees unless dangerous to you or your house. Dead trees are like standing refrigerators, filled with bugs, ants, and grubs to feed the thin-billed meat-eating birds, such as woodpeckers, thrushes, titmice, nuthatches, chickadees, and warblers, not to mention many mammals who depend on them. Trees
RAVENSBEARD continued from page 13

also support numerous cavity dwellers with nests and dens. If you don’t have dead trees on your property, you can attract wildlife with bird houses. Importantly, the bird house must be specific to the species you wish to attract. Placement is likewise extremely important; a little research makes all the difference in having the houses that you so carefully chose occupied.

• Does your dog or cat shed? Birds love using animal hair to line their nests. I put out clumps of dog hair, throwing them into the brush. Consider cutting up yarn or twine into 2-3” segments as they also are useful for nest building. Once, I saw a Red-Winged Blackbird nest constructed with tinsel. It was stunning, but not recommended for the environment.

• Please don’t use pesticides! The toxins build up in the bird and mammal tissue and can eventually be fatal if certain levels are reached. There are many organic alternatives on the market.

• Feeders are essential for the big spring bird migration. However, statistics demonstrate that wild birds are never completely dependent on seed. Their diet is rich in bugs berries, and nuts as well.

• Please clean feeders every 2-3 weeks. Avian conjunctivitis is easily spread through tube feeders. Use a 10 to 1 bleach solution and rinse well.

By the fall, Ravensbeard Wildlife Center will produce nest boxes for owls. We will customize a box for each species found in the Northeast. Boxes will be sold on our website with information on mounting, height, and direction entrances should face for easy access. For more information see: www.ravensbeard.org. Design your own? Just search the many websites on “do-it-yourself bird house building”.

Ravensbeard is a not-for-profit 501(c)3 organization and will provide a tax receipt for your files. Thank you for your interest in wildlife. We enjoy sharing our knowledge and passion with audiences of all ages.

Ravensbeard Wildlife Center
1679 Route 212
Saugerties, NY 12477
Ellen J. Kalish, Director
(845) 901-0633
ravensbeard@gmail.com

Author Maya Van Rossum Advocates a “Green Amendment” for All!

Linda Lou Bartle

On March 17, 2018, in an event co-sponsored with the BKAA, the Mamakating Library in Wurtsboro, NY, welcomed veteran environmentalist Maya van Rossum to discuss her new book, The Green Amendment: Securing Our Right to a Healthy Environment, followed by Q&A and book signing. The public and BKAA membership were invited to purchase a copy of the book, and learn about the future of environmental advocacy.

Maya discussed the decades long struggle for a cleaner environment, where we’ve been fighting a losing battle. The sad truth is, our laws are designed to accommodate pollution, rather than prevent it. People feel powerless in preserving the quality of their water, air, public parks, and special natural spaces.

The solution is to bypass the laws and turn to the ultimate authority: our state and federal constitutions. In 2013, Van Rossum and her team won a watershed legal victory that not only protected Pennsylvania communities from ruthless frackers, but affirmed the constitutional right of Pennsylvanians to a clean and healthy environment.

Following this victory, Van Rossum inaugurated the Green Amendment movement, dedicated to empowering every American community to mobilize for constitutional change. In The Green Amendment, Van Rossum lays out an inspiring new agenda for environmental advocacy, one that will finally empower people.

Explained in short, Pennsylvania already had an environmental amendment in their state constitution since 1971, but were thwarted by lawmakers within a couple years of its proclamation and in more recent times by ACT 13, a law that allowed the fracking industry to stomp on the people of Pennsylvania. However, Pennsylvania citizens have recently attained their “upgraded” Green Amendment which states the following:

Article 1, Section 27 of the Pennsylvania Constitution

“The people have the right to clean air, pure water, and to the preservation of the natural, scenic, historic and aesthetic values of the environment. Pennsylvania’s public natural resources are the common property of all the people, including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all people.”

We all have the right to pure water, clean air, and a healthy environment. It’s time to claim this right—for our own sake and that of future generations.

GREEN AMENDMENT continued on page 17
Ravensbeard Live Bird Show

This Saw Whet Owl just loved being petted!
*Photo by Linda Lou Bartle*

The Great Horned Owl (at right) came out waving to the crowd!
*Photo by Frank Coviello*

Two-week-old Gyrfalcon Chick was a special treat, on his way to becoming trained for falconry.
*Photos by Linda Lou Bartle*

This Barred Owl (below) didn't want to be left out of the photo.
2018 Winners of the Annual Catherine Abate Memorial BKAA Scholarships

(Editor’s Note: The following graduating high school seniors will each receive a $350 Catherine Abate Memorial BKAA Scholarship, founded by Michael Abate to honor his late wife, a passionate environmental activist. Their winning essays, included below, focus on local environmental problems and ways to mitigate them. Congratulations to Colleen, Dylan and Autumn!)  

COLLEEN BAER  
Pine Bush School District  
Within our local area, towns like Pine Bush, Goshen, and Newburgh have struggled with their water supply, as people live without a dependable source of clean water. From depleted water levels, to outdated water infrastructure, to water contamination, our communities continue to struggle in maintaining the wellbeing of our ecosystem and living in a sustainable manner that will preserve our health in the long run. However, the problems we face are not without solutions, and by focusing our collective attention on the issues, we can make significant strides toward a more sustainable future.

The biggest obstacle in resolving the questions surrounding the future of our water is mobilizing the common citizen to care about the issues. Local environmental organizations and activists play an important role in educating the public about the necessity of staying informed about the state of the environment. Through instilling in people a sense of urgency and concern, they become more likely to educate themselves and make helpful changes in their everyday lives. People will become more conscious of their water use, reducing wasteful running of water and allowing currently low water tables to restore, with people draining less from a local well. Additionally, when people consider and recognize where their water use comes from, they will pause before throwing any potentially dangerous refuse into a stream, instead opting for a garbage can. By promoting these small actions, we can make incremental improvements to the quality of our water that will soon be followed by larger steps.

Perhaps the most influential actions that an informed citizenry can take is to contact and pressure local elected officials for resources to grapple with the water challenges we currently face. Once citizens become activated in the environmental sphere, whether it is because of the efforts of activist groups or troubles they faced in their own lives, these people have the information necessary to affect change with visible consequences. It is because of people like this that fracking has remained illegal in New York and that Sean Patrick Maloney recently requested eight hundred thousand dollars to update water infrastructure in the Hudson Valley. People must continue to push for these types of policy changes, asking their representatives to pass regulations protecting their water quality and investments to update decrepit piping systems that are susceptible to contamination. Progress and accomplishments like these are within our grasp; all that is required is some ambition and civic activism that will force those with power to take necessary steps to serve the communities that they represent.

DYLAN BRODER  
Monticello Central School District  
Having grown up in Sullivan County, surrounded by nature,

2018 ABATE WINNERS continued on page 18

GREEN AMENDMENT continued from page 14

New York has begun the fight, but we need to help it along because it has been stuck in committee for over a year. The BKAA asks everyone to advocate at the state level. If we are going to protect our environment, we must act by contacting our constituents at the links provided below.

1) Englebright and Carlucci are the men behind the State Amendment. Please follow these links to show your support:

https://www.nysenate.gov/legislation/bills/2017/s5287/amendment/original - Senate District 38 - Carlucci

2) Contact our local representatives:

http://nyassembly.gov/mem/Aileen-M-Gunther
https://www.nysenate.gov/senators/john-j-bonacic/contact

Please let our representatives know that, although money has been allotted to help the environment, it has done little to safeguard us as individuals. Also, the state has failed us in the past, for example, the CPV plant and pipeline in Middletown, NY.


We need stronger rights and urge our members, friends, and families to join in protecting the environment and our future generations! For more information

http://forthegenerations.org/the-green-amendment/

The book is available on Amazon.com as well as Audible.
it is important to identify environmental threats to the area and help find solutions to these problems. This has become even more important since increase of development in the area from Resort World Casino and other large tourist attractions coming soon, such as water parks and spas. While these establishments seem out of our control, it is important to stay informed to ensure that our local wildlife is being protected, and that minimal detrimental environmental impact is being made.

The Hudson Valley, and Sullivan County specifically, is known for its beautiful mountainous terrains, wetlands and wildlife in general. While these have brought tourists to the area in the past, Sullivan County is beginning to be known for its new and future developments such as casinos. While most see these as positive attributes to the area, they cause concern for many. This is because if proper precautions are not taken over development can be severely detrimental to wildlife.

An example of large developments being detrimental to our local environment is the Kohl’s Warehouse located in Wurtsboro on Route 209. This was built directly on a local wetland and in a residential area. It was built with the understanding that it would not be visible from the road, and that a plethora of long term jobs would be available for the local community. However, there is no barrier hiding its visibility from 209, and Kohls hires seasonally as to pay minimally and not have to provide their workers benefits. They have caused the surrounding residential houses to be practically unsellable, and therefore created another eye sore for the area.

An effective way to help ensure that these developments are environmentally friendly is to attend local government meetings to ensure that zoning laws are compatible with green building. In addition, people have to make sure local government is following through with these zoning laws, because the Kohl’s Warehouse proves we cannot rely on the government’s word. It is also important to push local businesses to pursue the goal of having small environmental footprints by encouraging them to use renewable energy sources such as solar energy and by using already developed properties before clearing new plots of land. We should also be promoting ecotourism by encouraging photography, fishing, hunting, bed and breakfasts, family owned restaurants, hiking and guides for the area. If the area’s local businesses have a greener approach and give back to the environment in general, then the larger effects of huge developments will be less of a detriment.

Amanda Werkmeister Named Jack Orth Memorial BKAA Scholarship Winner

Amanda Werkmeister of Napanoch, a full-time SUNY Sullivan student majoring in Environmental Studies with an above 3.0 grade point average, recently was awarded the $300 Jack Orth Memorial BKAA Scholarship. The BKAA is thrilled to finally recognize a winner after several years with no credible candidates. (See Amanda’s application essay and professor’s recommendation letter).

Amanda’s Application Essay — April 12, 2018

Ever since I was young I have always been interested in animals and nature. Growing up I would often visit my grandparents who taught me how to love and appreciate nature. They’ve also shown me how to care for many different kinds of animals. Over the years, I have volunteered for several clean up events for beaches and parks. After these experiences, I realized that I craved a career where I can be outdoors as much as possible and help the environment. I chose to be an Environmental...
Invasive Species: ID & Management Introductory Class, Friday, April 20, 2018 at the Cornell Extension Education Center in Liberty

Kim Ashley, Environmental Professional

I first became aware of Japanese Barberry, an invasive, when I noticed it covering up rock walls and boulders on my property a couple years ago. I have since removed most of it from my yard. Then I began to observe the huge Japanese Barberry infestation in the Bash Kill.

To learn more about invasive species, I attended an Invasive Species: ID & Management Introductory class Friday, April 20, 2018 at Cornell Extension Education Center in Liberty. Japanese Barberry was barely mentioned there. However, they did reference other invasives that can be found in the Catskill region, including hemlock woolly adelgid (HWA), emerald ash borer (EAB), Asian longhorned beetle (ALB), Southern pine beetle (SPB), and oak wilt.

The Hemlock Woolly Adelgid (HWA) is an aphid-like insect native to Asia. It was first recognized in the Eastern U.S. in Virginia in the 1950’s, and reached New York in the 1980’s, though it has been present in the Western United States since 1924. This insect targets Eastern and Carolina Hemlock trees (Tsuga canadensis and Tsuga caroliniana). As one study in Southern New England found, “severely damaged sites lost over 95% of understory T. canadensis trees, up to 90% of saplings, and from 50 to 69% of total stand density and basal area.”

The Emerald Ash Borer (EAB) Agrilus planipennis Fairmaire is an invasive, wood boring beetle native to Asia that feeds on and eventually kills all species of Ash. The EAB was first found in North America in 2002 near Detroit and since has spread to 13 states, including New York, and two Canadian provinces, killing hundreds of millions of Ash trees in rural and urban settings. EAB has been found in a number of New York State counties, and a quarantine zone is in effect to prevent its further spread.

The Asian Longhorned Beetle ALB (Anoplophora glabripennis, or ALB) is a threat to America’s hardwood trees. With no current cure, early identification and eradication are critical to its control. It currently infests areas in Massachusetts, New York and Ohio. It threatens recreation and forest resources valued at billions of dollars. The ALB has the potential to cause more damage than Dutch Elm Disease, chestnut blight and gypsy moths combined, destroying millions of acres of America’s treasured hardwoods, including national forests and backyard trees.

Southern Pine Beetle, or SPB, is a bark beetle that infests pine trees. The beetle is small, only 2-4 mm in length (about the size of a grain of rice) and is red-brown to black in color. All pine trees are susceptible, including pitch pine, red pine, and jack pine. In addition to pines, hemlocks and spruce may also be affected in highly infested areas. SPB is widespread throughout Suffolk County, but the largest infestations are located in Wertheim National Wildlife Refuge, Connetquot River State Park, Hubbard County Park, and in East Quogue, NY. SPB has also been found in traps in Bear Mountain State Park in Orange and Rockland Counties, Schunnemunk State Park in Orange County, Roosa Gap State Forest in Sullivan County, Minnewaska State Park Preserve in Ulster County, and the Albany Pine Bush Preserve in Albany County. The adult beetle enters the tree through crevices in the bark and then creates S-shaped tunnels in the cambium tissue, just beneath the bark. This disrupts the flow of nutrients, killing the tree in typically 2-4 months. Most trees resist the initial attacks by secreting resin that can “pitch out” some adults and slow the entry of others, but trees almost always die as their defenses are overwhelmed by thousands of attacking beetles.

Oak Wilt is a disease that affects oak trees. It is caused by Ceratocystis fagacearum, a fungus that develops in the xylem, the water carrying cells of trees. It is a fast-acting disease that can cause mortality in red oaks in as little as two weeks. Infected white oaks can last anywhere from four to 12 years.

WERKMEISTER continued from page 18

Studies major because I want to be a part of a larger cause. I want to work with people who are as passionate about the environment as I am. Career wise, I would love to be involved in the conservation or preservation of an area or a wildlife habitat. It would be a dream to work for the National Park Service, the Department of Environmental Conservation, or the Department of Environmental Protection. I hope to one day be able to contribute to projects that will positively impact the environment.

Recommendation Letter — April 24, 2018

Amanda Werkmeister has applied for the Jack Orth Memorial BKAAL Scholarship. Amanda started as an Environmental Studies major at SUNY Sullivan this semester, and I’ve gotten to know her as an academic advisee and as a student in my Environmental Geology class. She is a conscientious and hardworking student, and I’ve been impressed with her writing and critical thinking skills. She currently has a B in my class, and has A’s and B’s in all her classes this semester. Her interest in Environmental Science and her potential make her a deserving recipient of your award. I recommend her without any reservations. You are welcome to contact me if you have any questions.

Sincerely,
Gregg Erickson, Professor, SUNY Sullivan
The waterfowl migration period started early this year with a complete thaw of the marsh in mid-February. This thaw was restricted to the southern portion of the county, as up county lakes and reservoirs remained frozen. This set the stage for an abundance of early moving waterfowl to land at the Bashakill.

By late February, we had a couple reports of CACKLING GEESE. This small relative of the Canada Goose is rare here. Whether or not more than one bird was involved, is impossible to say, but one was seen several times over a few weeks. Also noticed were TUNDRA SWANS! This large native swan breeds on the Arctic Tundra and is usually an uncommon passing migrant at the Bashakill. On February 26th, 37 of these beautiful birds flew through the Bashakill. Though they didn't put down, they were observed and photographed by myself and Scott Baldinger. Later that day, 23 Tundra Swans settled on Yankee Lake and spent the night. We were alerted to them by Fred Harding. On March 19th, Scott Baldinger found a Tundra Swan feeding in the marsh off Haven Road! It remained for 6 days and was noted by many happy birders!

The most exciting find, however, came in the form of a duck. On March 8th, I discovered a drake EURASIAN WIGEON feeding in the wetlands off Haven Road! This beautiful duck originates in Europe, Iceland being the closest breeding population to North America. Each fall, a few birds migrate southwest into northeastern North America. It probably wintered somewhere south of us and stopped over on its northward migration. The wigeon broke all records for Sullivan County, being the most observed bird ever at the Bashakill. Over 300 people viewed this cooperative species during its 17 day stay. This is significant since this bird drew people into the area from 10 nearby counties and three nearby states! The revenue generated into our local community through hotel rentals, gas purchases and dining in neighboring eateries made a crucial contribution to our economy.

Additionally, the number of ebird reports that went into Cornell’s data base reinforces several aspects of the Bashakill’s value. First, it supports its status as an “Important Bird Area” by providing migrating birds the sustenance needed to complete their migration. Secondly, it directly reflects the number of people drawn to the wetland as a result of these species presence. Another 19 waterfowl species were recorded in the Bashakill during February and March. Canada Goose, Snow Goose, Mallard, Black Duck, Wood Duck, Northern Pintail and Ring-necked ducks all numbered in the hundreds! Mute Swan, American Wigeon, Lesser Scaup, Redhead, Common and Hooded Mergansers, Common Goldeneye, Northern Shoveler, Pied-billed Grebe, Gadwall, American Coot, and Green-winged Teal were in lower numbers, but still presented a good showing. Fortunately, the Bashakill Area Association’s Annual “Waterfowl Migration Walk” was held on 3/24 and both the Eurasian Wigeon and Tundra Swan were around for all to see. With another month of waterfowl migration still to occur, I can’t wait to watch what shows up next!

Queen’s Couple is Called Back to the Bash

Karen Miller

“It was like standing in the middle of the Everglades, but surrounded by mountains.” That was Gordon Lam’s impression of the Basha Kill as he stood on Haven Road for the first time.

He and his wife, Lori, are avid travelers and birders from Forest Hills, Queens. They had heard about the Basha Kill, and seven years ago made their first trip to check it out. It was the beginning of a love affair with this Sullivan County treasure.

They started with Basha Kill birder John Haas’ Warbler Walk. Now they return two or three times each year, and always for John’s events, “We fell in love with the Bash and fell in love with John,” Gordon said.

John Haas, Scott Baldinger, and others keep them coming back. “The people are so friendly and down to earth, also like-minded,” stated Gordon.

The Lams remarked that the Basha Kill is beautiful every season and it’s different every time they arrive.

Lori explained, “The Basha Kill is the kind of place that touched our souls and it calls us back.”

The Lams are members in good standing of the Basha Kill Area Association and are proud to support local businesses on their visits to the county.
Rare Birds Alight at the Basha Kill

Birders “flock” to view Basha Kill rarities.
— See article on page 21.

Eurasian Wigeon.
All photos by John Haas
Leadership Sullivan Visits the Basha Kill

Terry Grafmuller, Board Vice Chair

On May 15, 2018, Leadership Sullivan Class of 2018 visited the Basha Kill wetlands in Wurtsboro, New York. It is amazing how many people living in Sullivan County all their lives have no idea that this beautiful piece of nature exists right under their noses.

The BKAA has hosted Leadership Sullivan for the past 10 years. The class began with Mike Medley leading participants on a short walk from the main DEC Haven Road parking lot to a newly built, handicapped accessible duck blind sited on a point thrust into the kill. Here, Mike highlighted the Basha Kill’s importance and diversity. Shortly thereafter, the group continued to the Haven Road bridge, where attendees heard more about this special ecosystem. Next, they visited Mamakating’s Environmental Education and Interpretive Center, where BKAA President Paula Medley underscored the organization’s Mission and activities, which was followed by a Center tour led by curator Carol Covington. After Paula’s presentation to 12 leadership students and some board members, all carpooled to the South Road Main Boat Launch, where further discussion of resource recreational opportunities ensued. The class found it enlightening that this gem (Basha Kill) exists and enjoyed seeing people so passionate about the environment. Thank you BKAA for your important role in our leadership program.

Birding for Beginners

Scott Graber

After a brief introduction to a handy list of birding resources, the 2018 version of Birding for Beginners was underway. And, as often the case, the program kicked off on Haven Road with all eyes on several Red-winged Blackbirds. Males were in full song and display, while numerous “sparrow-like” females could be seen darting amongst the wetland vegetation. Two distant male Wood Ducks were spotted in a far corner of the marsh. We were also treated to nice looks at Common Grackles and Tree Swallows.

Afterward, we drove over to the Bashakill’s main rail trail. But before we hit the trail, time was spent intently looking across the marsh at an adult Bald Eagle sitting near its northside nest. Because of the long viewing distance, it was difficult to tell if we were seeing any of the young eaglets in the enormous nest.

As we began walking northward, the song of a Black-capped Chickadee greeted us. Shortly after, the singing male made his appearance. Swamp Sparrows were plentiful as many were seen and heard adjacent to the trail. A male Cardinal zipped by so quickly that only a few birders caught a glimpse. A gorgeous Black and White Warbler also made a very brief appearance. Very high up in an oak tree, a Blue-grey Gnatcatcher was observed by some members of our group. And a few moments later, a colorful American Goldfinch was spotted near the parking area.

Next up was a visit to the Mamakating Environmental Education & Interpretive Center. This was a new twist to this year’s agenda. Upon arrival, we were warmly greeted and then introduced to the variety of informative displays and numerous photographs.

The final leg of the field trip was a brief stop at DEC’s boat launch along South Road. Here we looked through spotting scopes set up by the BKAA’s “Nature Watch” program. A short walk along the adjacent hiking trail produced two fascinating bird species to end our morning - a Brown Thrasher and a Yellow-bellied Sapsucker.

Many thanks to our twelve eager participants who helped make the 2018 version of Birding for Beginners field trip a great success. Each spring it’s my honor to share my passion for birds along the trails and shores of the Bashakill. It’s also my sincere hope that all participants took an enjoyable and successful step in bird identification.
The New York State Young Birders Club Visits the Bashakill

Lance Verderame

On May 6th, I once again was privileged to lead a field trip for the NYS Young Birders Club. It took place at the Bashakill Wildlife Management Area. We had two start times, 5 AM to listen for calling marsh birds and Whip-poor-wills and 7 AM for the rest who wanted to sleep in late (relatively speaking).

I had two early risers, a mother and daughter who came for the calling marsh birds. I arrived at Haven Road just before five o’clock. It was raining and this was of concern as the forecast called for rain on and off all day. While I waited for my birders, the rain briefly stopped for five minutes. As soon as it did, I heard two Barred Owls, an American Bittern, Common Gallinule, and an Eastern Whip-poor-will. Before my early birders arrived, it started to rain again and unfortunately didn’t stop for two hours, leaving them to hear only the American Bittern.

Once the 7 AM group showed up, the rain actually stopped and, lucky for us, it didn’t rain for the field trip’s duration which lasted until 1:30 PM. One of the day’s early highlights was a calling, then an airborne viewing, of an American Bittern close to Haven Road. This was a real treat for everyone, parents included, many of whom are also birders.

The group was fortunate to discover a very unexpected and rare visitor to the Bashakill, a female Purple Martin. We were checking out a cluster of swallows on the wires on Haven Road when a parent noticed a very small swallow perched next to the Tree and Barn Swallows. It was a Bank Swallow—unfortunately didn’t stop for two hours, leaving them to hear only the American Bittern.

Another trip highlight were good looks at a very cooperative Cerulean Warbler. Some birders had heard this warbler in the past but never attained quality glimpses, so they were pleased when one flew low enough to see. Other interesting sightings included a Swainson’s Thrush, Ruby-Throated Hummingbirds, Rose-breasted Grosbeaks, and a pair of Palm Warblers to name a few. Once again, a good time was had by all. In total, I believe we recorded 76 species. I already can’t wait until next year.

For anyone knowing a child between the ages of 10-19 who enjoys the outdoors and nature, this is a terrific club to join. While it is a birding club, it is my experience that many kids are also interested in other wildlife and nature. They typically go on one field trip a month, visiting many areas in New York State throughout the year. The young birders manage the club with adult oversight. If you want to learn more about NYSYBC, please visit their website at http://www.nysyoungbirders.org.

Gobbler’s Knob Hike

Lori McKean

There are two different versions of our recent hike to Gobbler’s Knob, but both have the same happy ending: commanding views of the valley and mountains, appreciation for this beautiful area we live in, and that sense of accomplishment one feels when climbing a mountain and reaching the top.

The first rendition of the Gobbler’s Knob outing starts with meeting hike leader Mike Medley and others at a South Road parking area. Bug spray, walking stick and water bottle in hand, we set out for the trail head. I had been curious about this hike for some time, and was excited to discover a new trail and get some exercise.

Well, in order to obtain a good bird’s eye view, you have to climb. And we did, up the side of the mountain, a fairly challenging upward path through the springtime forest. Emerging woodland plants were poking their way through the forest floor. New leaves on a variety of healthy hardwoods were unfurling in different shades of green. On one trail section, the moss beneath our feet was so pillow soft that we met a hiker who was enjoying the cushioned ground barefoot!

Between the trailhead and top of the Knob a couple of things occurred, which is where the second story begins, but eventually we ended up at the top and were greeted with breathtaking views of the valley. Despite the fog, we clearly saw the mountain range miles away. The train tracks and paved road below were like ribbons through a forest wrapping. We were above the turkey vultures soaring along the cliff. It was the perfect spot to stop, breathe in the fresh air, and take a moment to reflect upon all things greater than ourselves.

The climb down was, as always, quicker than the climb up, so we had some time to visit the new Nature Center at South and Haven Roads. What a little environmental treasure! We were treated to exhibits, information and artwork that illustrated all the natural wonders of the Basha Kill wetlands area. Now when I return for a little hiking, birdwatching or kayaking, I have new knowledge and an appreciation for all the hard work of Association volunteers.

As for the second rendition of the Gobbler’s Knob hike, well, as they say in Vegas, “what happens on the way up to the Knob stays on the Knob.” Mike Medley, your trail hike leader secret is safe with us!
Basha Kill Educational Outings

Spring forest landscape from Gobbler’s Knob. — See article on page 24.
Photo by John Kocijanski

Waterfowl migration participants visit Mamakating’s Environmental Education and Interpretive Center.
Photos by Karen Miller

Great views on the Waterfowl Migration Walk.
In a 3-1 vote on Thursday, April 19, Fallsburg’s Zoning Board of Appeals (ZBA) upheld validity of Thompson Education Center’s (TEC) building permit for foundation of a “single-family home” on Renner Road in Fallsburg. Board Chair Steven Burke and members Paul Lucyk and Neil Sapolsky voted YES, while Michael Bensimon opposed permit validity and Jonathan Schlosser recused himself.

The ZBA approved a resolution drafted in advance by special counsel Mark Miller of Veneziano and Associates. Notably, the ZBA did not deliberate in public, but quickly voted on the proposed resolution. An unofficial copy, sustaining the ZBA’s decision, is included herein.

BKAA arguments are excellently expressed in the attached John Lyons and Andy Willingham letters. Suffice it to say, “It takes a village…” so Thanks John, attorney Kim Garrison, and all who spoke at/attended public hearings, submitted written comments, or financially contributed. Your involvement was INVALUABLE and, in our opinion, not in vain!!! For instance, throughout the process, widespread opposition to TEC’s actions was evidenced by countless groups like Columbia Hill Neighborhood Alliance, Fallsburg’s Future, Rock Hill Neighborhood Coalition, and Yankee Lake Preservation Association, which reinforced BKAA efforts. Thompson officials attending these sessions also realized that this same involvement will extend to TEC’s environmental review by Thompson’s planning board. Likewise, now, hopefully, Fallsburg officials will carefully examine pending applications. And…Hooray! One board member voted in our favor, demonstrating merits of BKAA arguments. Importantly, when the Fallsburg permit was illegally (we believe) issued, the BKAA ACTED. We did not sit on our hands. WE DID SOMETHING AND WE ARE PROUD OF IT!!!

The entire appeal endeavor, from December 2017 to April 2018, cost $12,000 in legal fees and $4,000 in engineering charges. Importantly, John Lyons donated $4,000 in services, otherwise his bill would have been $16,000.

The BKAA, with advice from our attorneys, determined not to litigate the ZBA’s decision. Our greatest barrier were costs associated with seeking an injunction barring TEC site activity. We would need to put up an expensive bond and even then, obtaining the injunction would be difficult. If the injunction process was successful, we still would have to file an Article 78 lawsuit against the ZBA and TEC. Ultimately, we decided it was more prudent to prevent the 5.3 million sq. ft. TEC complex in Thompson than spend thousands in a potentially fruitless attempt to halt construction of a 9,000 sq. ft. building. The BKAA must conserve its resources for the intense battle commencing when TEC’s environmental review is resurrected.

Meanwhile, TEC’s latest public relations blasts tout opening an International Aviation College for Associates or Bachelor’s degrees. Plans entail developing aviation bases in the United States and introducing aviation manufacturing to China.

The BKAA continues carefully studying TEC activities, intervening when necessary.

BKAA Attorney John Lyons Letter to Fallsburg Board of Appeals

March 21, 2018

Mr. Steve Burke, Chairman, and Members of the Town of Fallsburg Zoning Board of Appeals
5250 Main Street
South Fallsburg, NY 12779

Re: Request for Interpretation from Building Permit F-173
Project: Thompson Education Center
Property Location: Renner Road Tr 14
Tax Parcel Number: 65.-1-11.59

Dear Chairman Burke and Members of the Board:

Thank you for extending the period for written comment until today. This letter, along with the attached letter from Willingham Engineering, will follow up and supplement all of the documents and testimony we have submitted before this in support of our case.

Part I.
Summary.

This letter leads with a presentation of further case law supporting your authority to invalidate this building permit based on the evidence before you. We also bring to your attention still further evidence that TEC does not intend to use this building for residential use. Finally, it came to our attention recently that the evidence in the plan suggests that this project exceeds the maximum allowed lot coverage. This too is a basis for invalidation of the building permit.

LYONS LETTER continued on page 28
Gordon and Lori Lam LOVE the Basha Kill. — See article on page 21. Photo by Karen Miller

Dave Colavito and Don Kenny remove Japanese Barberry. Photo by Kim Ashley

Maya Van Rossum presenting The Green Amendment. — See article on page 14. Photo by Peggy Johansen

Amanda Werkmeister, winner of Jack Orth Memorial BKAA Scholarship. — See article on page 18.
On May 8, the town board (board) reviewed lingering Plan concerns in a special workshop with steering committee members.

Critical to the BKAA, is board hesitancy to remove “low-intensity resort” use from the Shawanga Lodge property, several hundred acres overlooking Wurtsboro and Bloomingburg, off Exit 114 of Route 17(86). Located in the Town’s most restrictive zoning district, Ridge and Valley Protection, which prohibits resorts elsewhere in this district, Shawanga Lodge’s parcel should not receive special consideration. Supporting this contention, is Mamakating’s recent hydrogeological study, which highlights limited water resources on the ridge, compounded by dense residential development in the Shawanga Lodge neighborhood. The BKAA contends that owner David Flaum, who has accomplished nothing in 20 years, should sell his land at fair market value to Open Space Institute, completing a publicly accessible ridge top corridor from Route 17 to Route 52 in Cragsmoor. This certainly supports the Town’s vision of eco-tourism fostering Mamakating’s economic sustainability. At the very least, Flaum can construct a country inn or bed and breakfast on his premises.

Other issues entailed appropriate siting of commercial enterprises, with Route 209 and hamlet centers featured as acceptable locales. But as Committee Chair Andy Weil stated, “Changing the town to an eco-tourist destination takes time.” Creating an underground fiber-optic network might also attract businesses. The former Homowack acreage in Spring Glen was likewise referenced for possible consideration as a boutique hotel.

Additionally discussed was forming a Lakes District, encompassing Yankee, Masten and parts of Wolf and Wanaksink Lakes. Initially, each Lake Association would determine their primary interests, conveying them to the board by Association representatives. The board would then collaborate with the latter to achieve optimum results. Particularly disheartening were the villages’ unwillingness to participate in the Plan’s formation. Bloomingburg did nothing, while Wurtsboro generated their own Plan, never mentioning Mamakating.

Clearly underscored by all May 8 attendees, is Mamakating’s unwillingness to facilitate high density residential development, which necessitates significant infrastructure and produces higher taxes.

Once the board denotes final Plan changes, a public hearing will be held to obtain residents’/stakeholder’s input. Plan adoption should ensue thereafter. Then, in order to guarantee Plan enforcement, zoning amendments must be proposed and ultimately approved, which hopefully will transpire by December, 2018.

Establishing a Plan and zoning amendments is a labor-intensive, but necessary process, if Mamakating is to retain its rural residential identity and protect crucial natural and cultural resources, while evolving into a regional eco-tourism mecca.

As always, we will apprise members of major benchmarks and need for intervention.
The court upheld the town’s decision, and rejected the new label that the applicant had attached. The label “seasonal cottage” was prohibited on the applicant’s lot by the zoning law and the town issued a stop work order to halt building. Further support in the case law is also provided by the case of Witkowich v. Zoning Bd. of Appeals of Town of Yorkshire, 84 A.D.3d 1101 (2011). In Witkowich, a property owner was issued a building permit to construct a garage on property located in a residential zoning district as an accessory structure to the residential home on the same property. This “accessory” structure was designed to house eight or nine automobiles. And in terms of floor area, the accessory garage was nearly double the size of the home to which it was an accessory. The building permit was challenged based on the argument that, even though the applicant had labeled the garage as an “accessory structure”, the evidence showed it was not an accessory structure. The ZBA upheld the permit. But the ZBA’s decision was overturned by the court and the permit was invalidated. The court reversed the ZBA’s decision because the ZBA had ignored compelling evidence in the record that demonstrated that the building did not match the label. The court found that the evidence regarding the building’s design (8-9 car capacity) and scale (almost double the area of the residential home) showed that the building was not truly an accessory structure, incidental and subordinate to the residential home on the property.

Further support in the case law is also provided by the case of Brooks v. Town Board of Town of Dresden, 56 A.D.3d 874 (3rd Dept., 2008). In the Brooks case, a permit was issued for a 20’ x 30’ structure described by the applicant as a “storage and utility building.” However, after issuing the permit, the town discovered that a “storage and utility building” was prohibited on the applicant’s lot by the zoning law and the town issued a stop work order to halt construction. The applicant appealed and claimed that the structure was now a “seasonal cottage”, and thus allowed under the zoning law. The court upheld the town’s decision, and rejected the new label that the applicant had attached to the structure. The court looked past the label to the evidence. The evidence showed that the applicant had essentially reclassified the structure as a “seasonal cottage” following the stop-work order, after having consistently represented the structure as a storage and utility building. The court also noted that the structure also had no water or permanent sanitation facilities, characteristics more consistent with the use of the structure as a storage building than a cottage.

The 9th and 10th Street LLC, Witkowski, and Brooks cases all demonstrate that fact-finders should not blindly accept the labels placed on proposed structures by the applicant. The court decisions show that what matters is the evidence, not the label.

2.2. TEC has Misinterpreted the Case of Baskin v. Ramapo ZBA.

Mr. Privitera cites the case of Baskin v. Zoning Bd. of Appeals of Town of Ramapo, 40 N.Y.2d 942 (1976) in support of the building permit. This is really the only case that TEC relies upon. TEC claims that the case stands for the proposition that multiple kitchens are permitted in single family residences. TEC then extrapolates from that the idea that all single family homes are permitted to have multiple kitchens. But TEC has misinterpreted the Baskin case. It doesn’t stand for the idea that two kitchens are always allowed in single family homes. In fact, from the perspective of the outcome, the Baskin case actually supports a finding that the label matches the evidence as to how the property will actually be used.

In Baskin, the two kitchens proposed were permitted in a single-family home because the evidence supported the landowner’s claim that, despite the two kitchens, the structure would genuinely be used as a single-family home. And in terms of floor area, the accessory garage was nearly double the size of the home to which it was an accessory. The building permit was challenged based on the argument that, even though the applicant had labeled the garage as an “accessory structure”, the evidence showed it was not an accessory structure. The ZBA upheld the permit. But the ZBA’s decision was overturned by the court and the permit was invalidated. The court reversed the ZBA’s decision because the ZBA had ignored compelling evidence in the record that demonstrated that the building did not match the label. The court found that the evidence regarding the building’s design (8-9 car capacity) and scale (almost double the area of the residential home) showed that the building was not truly an accessory structure, incidental and subordinate to the residential home on the property.

Further support in the case law is also provided by the case of 9th and 10th St. LLC v. Board of Stds. & Appeals of City of N.Y., 10 N.Y.3d 264 (2008). In the 9th and 10th St. LLC case, the applicant sought a building permit to build a 19-story dormitory on the property. The dormitory would be designed similar to a 19-story apartment building, which was not permitted by the zoning law. The New York City Department of Buildings asked the applicant to substantiate that the actual use would accord with the label, specifically, that the applicant demonstrate proof that the dormitory would be formally connected to an education institution, and not simply be an apartment building where students or others could be tenants.

Relying on Baskin, the Appellate Division in 9th and 10th St. LLC said the permit should have been granted based on the applicant’s label, concluding that if the building turned out later to be an illegal apartment building, the City’s remedy was “either denial or revocation of the certificate of occupancy or an action to enforce the restriction in the deed.”

The Appellate Division’s reasoning is the same line of reasoning that is being advocated by TEC in this case. That reasoning says that the Town of Fallsburg is helpless to take action based on the evidence. Instead, despite the weight of the evidence, Fallsburg must wait and see whether this building ends up being put to illegal use some time in the future. But as we see below, the State’s highest
LYONS LETTER continued from page 29

Part 3.

More Evidence of Intended Non-Residential Use.

Speaking of evidence, we would also like to point your attention to some additional evidence, which is in the record, but which was not highlighted in our earlier presentations. Again, this evidence dovetails with the rest of the evidence we have highlighted to show that this building is impractical for single-family residential use.

• Driveway width of 24 feet. This width is twice the width of a conventional driveway. This width will accommodate two 12 foot wide lanes of traffic, facilitating two way traffic in and out of the site. Like so much of the other evidence, this is yet another characteristic of this building which is contrary to normal single-family residential use. What’s more, as a road which is capable of accommodating two-way traffic, the driveway is designed to be easily adapted in the future to be an access from Renner Road to the Education Center on TEC’s Thompson property.

• Driveway sign. The roadside sign on Renner Road depicted on Sheet C-100 of the plans and labeled “double-sided sign” is another element which is not consistent with normal single family residential use, and consistent with nonresidential use.

• Emergency Exit Lighting. A small but telling part of the interior design of the building includes an "Emergency lighting fixture”. This appears to be the type of emergency lighting device which is a common safety feature in non-residential buildings. It is certainly not something which is seen in single-family residential homes.

• Building Layout. As was pointed out by Mr. Bensimon at the last ZBA meeting, the pedestrian flow within the building is not consistent with a practical use of the building as a single family residential structure. Mr. Bensimon’s story of the long journey which would have to be taken to do laundry speaks eloquently for itself.

These pieces of evidence are telling; a close look at TEC’s plans demonstrates that this building is not practical for use as a single family home. It is a Trojan horse. This proposed building is an attempt to disguise the introduction of a non-residential use in a residential zone. Thus, the building permit should be invalidated.

Part 4.

Improper Segmentation, as Facilitated by this Building Permit, Remains an Important Issue.

For some reason TEC’s attorney claimed at the public hearing that the segmentation issue raised by our clients on this appeal is no longer relevant. Nothing could be further from the truth. Improper segmentation is alive and well as a defect associated with this permit. This is so not only because improper segmentation is illegal, but also because of TEC’s previous representations about how it
LYONS LETTER continued from page 30

intended to use this property.

In our appeal to this Board, we discussed in detail the history of TEC’s Fallsburg parcel as part of the Education Center project. Under the circumstances, it is not unreasonable to assert that TEC is now labeling this building as a “single family home” in an attempt to sidestep the environmental review of the Education Center by the Thompson Planning Board.

In the Brooks case, we noted earlier that the courts would not allow a property owner to re-label a storage building as a cottage so as to circumvent the application of the law. And neither should that be permitted here. In the past, TEC represented to the Thompson Planning Board that this Fallsburg property would be part of the Education Center and used as a caretaker/security facility. The parcel was also supposed to provide vehicular access from Renner Road to the Education Center. Now TEC labels the building on this parcel as a single family home, even in the face of a mountain of evidence that it is designed to be used for nonresidential purposes. It is not unreasonable under the circumstances to conclude that this building represents the first step in the construction of the Education Center, and that this represents improper segmentation because the environmental review of the proposed Education Center has barely even begun.

The impact of this attempt to sidestep the environmental review is not theoretical. For example, a significant portion of TEC’s Fallsburg property is covered by federal wetlands. TEC’s “residential home” plan proposes locating large areas of impervious surface right next to the wetlands. The impact of runoff from those surfaces to the wetlands would be considered as part of the Thompson Planning Board’s environmental review. By sidestepping that review, those impacts will not be considered.

Part 5.

The Building Permit Should Also be Invalidated Because the Project Exceeds the Maximum Allowed Lot Coverage For a Single Family Home under the Fallsburg Zoning Law.

Another important issue has only recently come to our attention, and we wish to bring it to your attention. The Applicant’s plans show that this proposed structure and its associated lot improvements exceed the maximum allowed percentage of lot coverage.

The information on the Applicant’s plans with regard to coverage is not always definitive. However, based on the plans, we believe that the applicant has incorrectly calculated the percentage of lot coverage in its site plan by only including the impervious surface of the footprint of the building and concrete sidewalks. However, when calculating the 900 foot driveway, and grass pavers, the impervious surface amounts to 35,480 square feet, or 16.6% of the site. This far exceeds the maximum allowable lot coverage of 10% in the REC-1 zoning district.

Our clients’ consulting engineer, Andrew Willingham, of Willingham Engineering, has prepared a letter which examines this issue in detail. A copy of his letter dated March 21, 2018 is attached. Standing alone, this is sufficient reason to warrant rescission of the building permit. This issue has also been raised in separate letters which will be submitted to you from members of both the Yankee Lake Preservation Association and the Rock Hill Neighborhood Coalition.

Part 6.

Conclusion

Throughout this appeal, we have continually asked you to believe your own eyes. From the court decisions, you know that the key to your determination is what the evidence in the record before you tells you. Your determination should be based on the evidence, not the label.

Thank you for your time and consideration,

Very truly yours,

Grant & Lyons, LLP
John F. Lyons, Esq.
Kimberly A. Garrison, Esq.

c via email: Mark Miller, Esq. Veneziano & Associates
John Foufas
Paula Medley, President, BKAA

1 Baskin v. Zoning Board of Appeals of the Town of Ramapo, 40 N.Y.2d 942, 942 (1976).
3 9th and 10th St. LLC v. Board of Stds. & Appeals of City of N.Y., 10 N.Y.3d 264, 269 (2008).
4 9th and 10th St. LLC v. Board of Stds. & Appeals of City of N.Y., 10 N.Y.3d 264, 270 (2008).
5 John Privatera, Esq. letter to the Fallsburg ZBA, dated February 15, 2018, at p. 2.
BKAA Engineer Andy Willingham’s Comments Supporting John Lyons’ Letter

March 21, 2018

Grant & Lyons
John Lyons
149 Wurtemburg Road
Rhinebeck, NY 12572

Dear Mr. Lyons:

As you know, our client, the Basha Kill Area Association (“BKAA”), maintains significant concerns regarding the massive alleged single-family structure proposed on Renner Road in the Town of Fallsburg. This correspondence is intended to supplement prior testimony to the Zoning Board of Appeals, both in written format (12-21-17 Letter) and our verbal comments presented at the February 2018 and March 2018 public hearings. Upon further review of the project materials, we offer the following additional comments.

Zoning Code Requirement - Lot Coverage

Per §310 of the Zoning Code, Schedule I -Table of Use and Bulk Requirements, a maximum of 10% Lot Coverage is required. Lot Coverage is defined under §310-2.2 as “The proportion of the lot area that is covered by impervious surface including buildings and off-street parking areas.” Impervious Surface is defined as “Those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snow melt and water (e.g., building rooftops, pavement, sidewalks, driveways, patios, etc.).

Calculation of Lot Coverage

We reviewed the 81 sheet set of Building Plans dated last revised September 20, 2017, to determine what surfaces are proposed and which shall be considered impervious. The proposed building and concrete sidewalk are certainly impervious. It is possible to install parking, driveways, and walkways that infiltrate runoff. However, they must have very specific design and installation requirements, as detailed in the latest NYSDEC Stormwater Management Design. Without special design and construction they do not “effectively infiltrate runoff”. The Site Plan seems to attempt to utilize pervious walkways and parking but is vague and non-specific. “Concrete grass pavers” are identified on Sheet A-001 in areas around the building. However, there are many types of concrete grass pavers, many of which do not infiltrate runoff effectively by design or due to lack of maintenance. No information is provided on the Building Plans with regard to the concrete grass pavers.

Similarly, a singular reference to “permeable paving” is provided for the area adjacent to the proposed parking spaces. The Building Plans aren’t clear whether “permeable paving” is proposed only in the area near the parking, or for the entire 900 foot long driveway. The Overall Site Plan, shown on Sheet T-100, does not indicate the surface type for the proposed driveway. No information is provided on the type or construction method for the permeable paving proposed. There are many types of permeable paving, most of which are still being tested. Their effectiveness is also questionable in colder climates such as New York.

As a result of the vague, non-specific proposal for grass pavers and/or permeable paving with no information whatsoever provided as to the type, installation, effectiveness or conformance with NYSDEC requirements, it cannot be assumed that they will “effectively infiltrate runoff”. They must be considered impervious surfaces.

We calculated the impervious surfaces to be 35,480 square feet, equal to 16.6% of the site. The maximum Lot Coverage allowed in the REC-1 zoning district is 10%, therefore a building permit should not have been granted.

Access

While calculating impervious surfaces for lot coverage, it was noted that the proposed driveway is inordinately wide. A typical residential driveway is 12 feet wide. A typical commercial or institutional driveway is 20-24 feet wide to allow two way traffic. As shown on Sheet T-100, a 24 foot wide driveway is proposed, presumably to allow two way traffic to and from a “residential house”. A looped driveway is also provided for traffic flow and a parking lot is provided. The traffic generated by one single family home is very low and would never warrant a 24 foot wide driveway with two way traffic capability. In fact, in my nearly 20 year career I do not recall ever observing a single family home driveway that was 24 feet wide or greater.

The project does not meet the Zoning Code as it relates to Lot coverage - more than 1.5 times the allowable

WILLINGHAM continued on page 36
Date: April 19, 2018  
Applicant: Grant & Lyons as counsel for John Foufas and the Basha Kill Area Association  
Relief Requested: Overturn Issuance of Building Permit F-17326  
SBL#: 65-1-11.59  
Property Location: Renner Road, South Fallsburg  

WHEREAS, this appeal (the "Appeal") has been brought by John Foufas ("Foufas") and the Basha Kill Area Association ("BKAA") (collectively the "Appellants") seeking the revocation of Building Permit #F-17326 (the "Building Permit"), issued on November 28, 2017 by George Sarvis, Deputy Code Enforcement Officer ("CEO") of the Town of Fallsburg ("Fallsburg"); and  
WHEREAS, this Appeal was filed on or about December 22, 2017 by Grant & Lyons LLP ("G&L"), counsel for Appellants; and  
WHEREAS, the Zoning Board of Appeals ("ZBA") of Fallsburg conducted a duly noticed public hearing which was opened on February 15, 2018 and closed on March 15, 2018, at which times all those wishing to be heard with respect to the Appeal were given the opportunity to be heard; and  
WHEREAS, the ZBA allowed additional written comments to be submitted with respect to the Appeal, provided that any such written comments must be received by the CEO no later than 5:00 PM on March 21, 2018; and  
WHEREAS, this Appeal requests the ZBA to review and overturn the issuance of the Building Permit, based upon the Appellants' claim that the structure will not be used as a single-family residence, but rather, as a commercial use or a multi-family dwelling; and  
WHEREAS, on October 16, 2017, the building permit application (the "Fallsburg Application") was filed by Thompson Education Center ("TEC"), owner of the property known as Renner Road TR 14 and shown on the tax map as Parcel 65.-1-11.59 (the "Subject Property"); and  
WHEREAS, the Subject Property is identified on the tax map as parcel 65.-1-11.59 and is located in the REC-1 zoning district and is approximately 4.93 acres in size  
WHEREAS, the Fallsburg Application sought the issuance of a building permit for a single-family residential home to be constructed and located on the Subject Property; and  
WHEREAS, the rear property line of the Subject Property is on the municipal boundary between Fallsburg and the Town of Thompson ("Thompson"); and  
WHEREAS, TEC owns a 568± acre parcel in Thompson that abuts the Subject Property (the "Thompson Property"); and  
WHEREAS, TEC has an application (the "Thompson Application") pending before the Planning Board of Thompson to establish an education center on the Thompson Property for approximately 2,500 students and 275 faculty (the "Thompson Project"); and  
WHEREAS, the original Thompson Application submitted to the Thompson Planning Board delineated the use of the Subject Property for an access road from Renner Road to the Thompson Property, together with a security building on that proposed access road near its intersection with Renner Road; and  
WHEREAS, based upon the original plans submitted by TEC to the Thompson Planning Board, the Subject Property was an integral part of the proposed Thompson Project and, accordingly, was subject to the review to be conducted by the Thompson Planning Board as lead agency under the State Environmental Quality Review Act ("SEQRA"); and  
WHEREAS, as part of the overall SEQRA review, no permits could be issued by Fallsburg until the SEQRA review had been completed by the Thompson Planning Board; and  
WHEREAS, the ZBA finds that neither the proposed access road nor the security facility, as originally proposed by TEC, is a permitted principal or accessory use in the REC-1 zoning district under the Fallsburg Zoning Code; and  
WHEREAS, TEC revised the Thompson Application and the Thompson Project with respect to the Subject Property to the effect that TEC wished to construct a single-family home on the Subject Property, rather than a security facility; and  
WHEREAS, the revised Thompson Application included a map showing that there would still be an emergency access across the Subject Property to the Thompson Property; and  
WHEREAS, on or about October 17, 2017, the CEO advised the consultants for TEC that, in order to process the Fallsburg Application, the access road had to be removed from the site plan inasmuch as it is not an allowable principal or accessory use on the Subject Property; and  
WHEREAS, the CEO also advised TEC's consultants that, in order to proceed with a review of the Fallsburg
Application, the Subject Property had to be removed from the Thompson Application and the Thompson Project; and
WHEREAS, on or about October 23, 2017, a revised site plan was received by the CEO from TEC's consultants removing the access road from the plans for the Subject Property; and
WHEREAS, on or about November 21, 2017, TEC's counsel confirmed in writing to the Thompson Planning Board that the Subject Property would be removed from, and was no longer part of, the Thompson Application and the Thompson Project; and
WHEREAS, on or about November 21, 2017, the Thompson Planning Board received new plans from TEC which removed the Subject Property from the Thompson Application and the Thompson Project; and
WHEREAS, once the Subject Property was eliminated from the Thompson Project, it was no longer subject to the environmental review being conducted by the Thompson Planning Board; and
WHEREAS, in accordance with § 267-b(1) of the Town Law of the State of New York and § 310-10.5(B) of the Fallsburg Zoning Code, upon this Appeal the ZBA has all of the powers of the CEO with respect to the issuance of the Building Permit; and
WHEREAS, in such role, the ZBA has the authority and jurisdiction to "...reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination as in its opinion ought to be made on the premises and to that end shall have all the powers of the official(s) from whom the appeal is taken."; and
WHEREAS, in accordance with § 310-11.1 (G) of the Fallsburg Zoning Code, the CEO has no discretion with respect to the issuance of a building permit in that the building permit must be issued if all applicable codes and requirements are satisfied and cannot be issued if they are not; and
WHEREAS, pursuant to the SEQRA Regulations, 6 NYCRR § 617.5(c)(19) "official acts of a ministerial nature involving no exercise of discretion, including building permits and historic preservation permits where issuance is predicated solely on the applicant's compliance or noncompliance with the relevant local building or preservation code(s)" are Type II actions; and
WHEREAS, the SEQRA Regulations provide that Type II actions have been determined not to have a significant impact on the environment and, accordingly, are not subject to environmental review under SEQRA; and
WHEREAS, inasmuch as the issuance of a building permit involves no exercise of discretion on the part of the CEO, the determination as to whether or not to issue a building permit is exempt from the SEQRA Regulations; and
WHEREAS, the ZBA has all of the powers of the CEO on this Appeal and, accordingly, also has no discretion with respect to the issuance or non-issuance of a building permit; and
WHEREAS, based on the foregoing, this Appeal is also a Type II action and exempt from SEQRA; and
WHEREAS, the Appellants claim that the issuance of the Building Permit prior to the completion of the SEQRA review by the Thompson Planning Board constitutes impermissible segmentation of the environmental review of the Thompson Project; and
WHEREAS, the ZBA has been advised by its counsel that the issuance of the Building Permit by the CEO is not segmentation because (i) the issuance of a building permit is a Type II action and therefore exempt from SEQRA; and (ii) the Subject Property has been eliminated from, and is no longer a part of, the Thompson Application or the Thompson Project; and
WHEREAS, the issue of the standing of the Appellants to bring this Appeal has been raised; and
WHEREAS, Foufas, in the Appeal, alleges that he owns property directly across the street from the Subject Property, which allegation has not been challenged; and
WHEREAS, on advice of counsel, the ZBA has determined that Foufas apparently has standing to bring this Appeal; and
WHEREAS, based upon that determination, the ZBA need not determine whether or not BKAA has standing and leaves any future determination in this regard to the courts; and
WHEREAS, based upon the foregoing, the ZBA will proceed to decide this Appeal on the facts and the record presented to it; and
WHEREAS, in reaching its findings and decisions on this Appeal, the ZBA has reviewed: (i) the entire Building Department file on this matter; (ii) the Appeal; (iii) the statements made at the public hearings conducted on February 15, 2018 and March 15, 2018 and the minutes of those meetings; and (iv) the various documents, letters, and emails submitted by counsel for TEC, counsel for Appellants, and other interested third parties which were submitted both during the appeal process and also during the extended written comment period established by the ZBA following the closing of the public hearing; and
WHEREAS, the ZBA recognizes the expertise of the CEO in reviewing building permit applications and determining code compliance and, in that regard, the ZBA has carefully reviewed the analysis prepared by the CEO with respect to code compliance of the building permit application that is the subject of this Appeal; and
FALLSBURG ZBA continued from page 34

WHEREAS, among the comments made during the public hearings were several derogatory statements made with respect to the ethnicity and credibility of the principal of TEC; and

WHEREAS, the ZBA hereby repudiates those statements and they form no part of the basis for the findings and decision herein; and

WHEREAS, the principal argument put forth by Appellants, both in their papers and during the discussion at the public hearings, is that the proposed building is not designed as a single-family house but rather as office space or a multi-family dwelling and, as a result, the building will not be used as a single-family dwelling unit as defined in the Fallsburg Zoning Code; and

WHEREAS, the Appellants also argue that, in the past, TEC has indicated its intent to use the Subject Property for an access road connecting the Thompson Property and the Thompson Project to Renner Road, with a security facility at the end of that access drive; and

WHEREAS, the ZBA acknowledges that, in the past, TEC was indeed proposing to utilize the Subject Property for an access road and a security facility as part of the Thompson Project; and

WHEREAS, as set forth above, the proposed plans for the development of the Thompson Project have been revised to eliminate the Subject Property from the Thompson Property and the Thompson Project with no further connection to either the Thompson Property or the Thompson Project; and

WHEREAS, the plans submitted to Fallsburg are for a single-family structure with no through connection whatsoever to the adjacent Thompson Property; and

WHEREAS, the Appellants also rely on the fact that the proposed single-family structure, having been largely designed in compliance with commercial building standards as opposed to residential standards, demonstrates that the structure will not be used as a single-family residence; and

WHEREAS, the ZBA finds that there is nothing to prohibit a property owner from exceeding the standards for a residential structure; and

WHEREAS, neither the size of the proposed building nor its design preclude its use as a single-family dwelling; and

WHEREAS, both the initial and the continued use of the structure as and for a single-family dwelling remain subject to enforcement by the Fallsburg CEO; and

WHEREAS, the Fallsburg Code permits the CEO to inspect any building in Fallsburg with respect to code compliance; and

WHEREAS, the Building Permit has been issued for a single-family dwelling; and

WHEREAS, any certificate of occupancy that would be issued upon completion would also be limited to a single-family dwelling; and

WHEREAS, in the event the building were, at some point in the future, to be determined to being used as anything other than a single-family dwelling, the Building Department has the jurisdiction and authority to enforce the Fallsburg Code; and,

WHEREAS, such enforcement could include a notice of violation which would subject the owner of the Subject Property to potential daily fines of up to $1,500 and/or revocation of the certificate of occupancy; and

WHEREAS, both the counsel for Appellants and counsel for TEC have submitted documents supporting their respective positions, which documents reference certain court cases; and

WHEREAS, the ZBA has discussed with its counsel the facts and findings of those cases; and

WHEREAS, based upon those discussions with counsel, the ZBA believes that the case of Matter of 9th and 10th St. L.L.C. v. Board of Stds. & Appeals of the City of New York (10 NY 3rd 264 (2008)) is not applicable to the matter at hand because the refusal to issue the building permit in that case was based upon the applicant's inability to demonstrate that the proposed building could be used as a dormitory and not a conventional apartment building; and

WHEREAS, also based upon discussions with counsel, the ZBA understands that the case of Baskin v. Zoning Bd. of Appeals, 48 AD 2d, 667 (2d Dept. 1975), 40 NY 2d 942 (1976) stands for the proposition that "A mere opportunity for future evasion or violation of law does not raise a presumption that such violation in fact actually presently exists"; and

WHEREAS, the Court in Baskin also stated as follows: "The standard, therefore, is not designed or potential use, but actual use. If, in fact, a large house with additional amenities such as those the owner-builder here sought to include in order to meet the desires and religious needs of his wife, son, and daughter-in-law is to be barred because it might, at some future time, possibly be used by later owners or occupants for a use which violates the existing one-family limitation, the effect would be to visit on the present lawful users and occupiers of the home anticipatory punishment for future wrongdoing by another, a concept contrary to the basic principles of Anglo-Saxon Law."; and

WHEREAS, the ZBA recognizes the distinction between the former case, in which the applicant for a building permit could not demonstrate that the proposed building could ever be used for a zoning compliant use as compared to the second case where the building could be used for a
Hopper Hill Sand and Gravel Mine, LLC Banned in Mamakating Due to Local Law Passage

Paula Medley

April 3rd was a benchmark day in Mamakating, as the town board adopted a more restrictive solar law and a critical second law prohibiting new extractive operations (mines, quarries, et. al.) from the Light Industry/Office (LIO) zoning district, where Hopper Hill (HH) is slated. Seemingly, then, HH is stymied unless possible litigation upholds their case. Notably, the draft Comprehensive Plan already precludes new extractive industries throughout the Town, but it has not yet been board approved, generating need for the local law, which became effective immediately. So, thank you, Town Board for another job well done!!!

Interestingly, despite the aforementioned, the Department of Environmental Conservation will continue HH’s environmental review, which currently is at the scoping stage.

Stay tuned for pertinent developments in this ongoing saga.

A Full Environmental Review of Dragon Springs’ Cumulative Construction Since Early 2000 Is At The Scoping Stage

BKAA Engineer Andy Willingham Submitted Written Comments During Scoping

Paula Medley

A public hearing on Dragon Springs’ (DS) draft Scope occurred on May 9. It was well attended, with many concerns underscored (See Deerpark Rural Alliance update for details). Most disturbing to the BKAA are potentially negative effects on the Basher Kill from daily discharging 100,000 gallons of wastewater from a proposed treatment plant into a Basher Kill tributary. Consequently, BKAA engineer Andy Willingham was directed to comment on the draft Scope’s wastewater and stormwater matters, which are catalysts for BKAA DS involvement (See Willingham’s Scope letter).

The BKAA will closely monitor DS water issues and intervene when necessary.

Town Board Adopts More Restrictive Solar Law
Sugar Gum and Kuhls Solar Proposals No Longer Viable

Paula Medley

On April 3, the town board approved a strengthened solar law, effectively thwarting Sugar Gum and Kuhls unless they were exempted from this law by separate board ratification. When that opportunity occurred two weeks later, no board member motioned to absolve those earlier solar projects from the new law’s immediately effective mandates, thereby scuttling Sugar Gum and Kuhls. Notably, developers removed Dunntown’s solar application (Mt. Vernon Road) from consideration before April 3.

Kudos to the board for hours of research spent rectifying initial solar law deficiencies.

WILLINGHAM continued from page 32
impervious surface is proposed. The inordinately wide driveway, presumably to provide for two way traffic, adds to the mounting evidence already provided to the Zoning Board - that this building is not intended for usage as a single family residential home.

Sincerely,
Willingham Engineering, PLLC
Andrew Willingham, PE
NYS Professional Engineer No. 083984

1 The Building Plans were obtained from the Town Building Department through a Freedom of Information Law (“FOIL”) request in December 2017. The full set of Building Plans was requested, however it was discovered today (March 21, 2018) that two sheets of the 83 sheet set were not provided. Specifically, it was observed today that the Drawing List on Title Sheet T-100 lists Sheets C-100 & C-101 (2nd and 3rd sheets of the set), however these two sheets were not included in the set provided by the Town per the FOIL request. Our comments contained in this correspondence therefore do not reflect any information contained on those sheets. Today, we informed the Town Clerk and Building Department of the error and await the receipt of the missing two sheets.
Deerpark Rural Alliance (DRA) cheers late May’s dazzling sunshine, carpets of wildflowers, and waterfowl, lifting the weight caused by a long intense winter. During winter, DRA focused on monitoring the unnamed tributary that flows from Dragon Springs (DS) and empties into the Basher Kill adjacent to Lower Galley Hill Road. From January through early May, four plumes of water, colored various shades of ochre, spilled into the Basher Kill. These spills originated from DS construction and were recorded by DRA in photos, video, and shared on social media. Sadly, they emerged from work sites, not from seasonal storm turbidity as DS attorney Richard Golden stated. The DEC was informed and followed up on DS misdeeds, which resulted in fines and other consequences not yet publicly announced.

Secondly, attending Deerpark’s planning and town board sessions, with new DRA members participating, has been effective. Presence at meetings and learning town processes is basic to DRA credibly impacting issues. DRA also appeared at Deerpark Town Court in April where DS pleaded guilty to combined permit and building violations ($7500 fine) and agreed to an outside engineer’s oversight on dismantling an illegally covered walkway and remedying other violations at DS’s expense. Unfortunately, DRA is not optimistic that these consequences will change DS’s future practices.

Lately, the most important DRA activity has been our response to DS’s Draft Environmental Impact Statement (DEIS) Scoping Session. Lanc and Tully Engineers represent DS. The DEIS had been ordered by the DEC several years ago before future DS plans were to be approved. The DEIS must reflect cumulative building impacts beginning with DS construction in early 2000. DRA had a robust appearance at Scoping on May 9 with oral and written statements, including testimony from BKAA engineer Andy Willingham (See Willingham letter). The total pile of remarks was a foot high! Water, water treatment, and need for full disclosure were highlighted by many.

A two week extension was granted for written evidence, prompting DRA members and others to weigh in further. These later comments and questions involved: mitigation from the proposed 100,000 gpd wastewater treatment system ultimately discharging into the Basher Kill, water and chlorine from DS’s two Olympic-sized swimming pools, the first year of bald eagle absence on DS property overlooking the Neversink, sedimentation and dwarf wedge mussel impacts (current facts sourced from The Nature Conservancy, Fish and Wildlife, and established groups), wildlife ramifications, traffic, road conditions, fire safety, light pollution and nuisance from DS patrols, and non-point pollution. The environmental review continues with the planning board as lead agency on June 13. PLEASE ATTEND.
FALLSBURG ZBA continued from page 35

zoning compliant use and any future potential for improper use was merely speculative; and

WHEREAS, the ZBA finds in the current matter that, whatever speculation may be had with respect to the future use of the building, there is nothing in the record to demonstrate (i) that the building cannot be used as a single-family dwelling, or (ii) what may transpire in the future with respect to the use of the building; and

WHEREAS, the ZBA is confident that the CEO will ensure compliance with all applicable codes as well as the continued use of the building as and for a single-family dwelling; and

WHEREAS, counsel for TEC has argued that TEC, by virtue of certain work performed on the Subject Property in reliance on the Building Permit, has vested TEC with rights to that permit; and

WHEREAS, the work alleged to have been undertaken by TEC includes the installation of a construction trailer on the Subject Property; and

WHEREAS, based upon discussions with counsel, the ZBA finds that the work performed by TEC to date is not sufficient for TEC to have acquired vested rights in the continuation of the Building Permit; and

WHEREAS, following the closing of the public hearing, and in documentation submitted thereafter, an issue has been raised as to compliance of the site plan with the maximum lot coverage permitted in the zoning district in which the Subject Property is located; and

WHEREAS, the ZBA finds that that issue needs to be resolved; and

WHEREAS, the ZBA has been advised that, following the closing of the public hearing and the written comment period, TEC submitted revised plans addressing the issue regarding maximum lot coverage; and

WHEREAS, those revised plans are not part of the record on this Appeal and the determination of the ZBA is not based on said revised plans; and

WHEREAS, a letter dated April 16, 2018 from John Lyons, counsel for the Appellant, was submitted, which letter discusses, among other matters, the revised plans submitted by TEC referenced above; and

WHEREAS, that letter is also not part of the record on this Appeal and the determination of the ZBA is not based upon said letter; and

WHEREAS, the ZBA determination herein is based upon the record established in this Appeal; and

WHEREAS, based upon the entire record, the ZBA has found no basis for revoking the Building Permit;

NOW, THEREFORE, BE IT RESOLVED as follows:

1. The foregoing "Whereas" clauses are hereby in as part of the findings and decision of the ZBA in this matter as if they were fully set forth herein at length;
2. There is nothing in the record to demonstrate that the proposed building cannot be used as a single-family dwelling;
3. Any potential future violations of the Zoning Code are subject to enforcement as set forth in the Fallsburg Code;
4. The ZBA hereby affirms the issuance of the Building Permit by the CEO, subject to satisfaction of the following conditions:

   (a) TEC must demonstrate compliance with the maximum lot coverage provisions of the Zoning Code, either by showing such compliance utilizing the existing plans or by submitting revised plans demonstrating compliance;

   (b) The current disturbed areas between the Fallsburg Property and the Thompson Property must be graded and stabilized with indigenous vegetation to preclude any access from the Fallsburg Property to the Thompson Property; and

   (c) TEC must demonstrate compliance with all applicable ICC Code Regulations.

Animal life at the Basha Kill is not limited to birds. In fact, the diversity of habitats — and therefore species — is what makes the Basha Kill special. There are over 30 species of fish here, including the rare blue-spotted sunfish and the ironcolor shiner, a NYS species of special concern. The marsh, with its slow-moving channel, is warm with low oxygen levels, thus home to species such as bowfin and bass. But several tributaries and cold springs support trout as well.
Engineer Willingham’s Comments on Dragon Springs’ Scope

May 8, 2018

Mr. Robert Vicaretti, Sr., Chair
& Planning Board Members
Town of Deerpark Planning Board
420 Route 209
PO Box 621
Huguenot, NY 12746

Re: Dragon Springs Buddhist Monastery
Galley Hill Road
Town of Deerpark, New York

Scoping Document Review

Dear Chairman Vicaretti & Members of the Planning Board:

Our firm has been engaged by the Basha Kill Area Association (BKAA) to provide engineering consultation and representation regarding the Dragon Springs Buddhist Monastery project approvals. As you know, the BKAA serves as a watchdog, monitoring developments that threaten the valuable natural resources located in the Bashakill Wetland System. Dragon Springs proposes to expand their operations to include several new buildings and a new 100,000 gallon per day wastewater treatment plant. We have reviewed the Draft Scoping Document dated last revised January 29, 2018 in reference to stormwater and wastewater issues only. The following is provided for the Board’s review, to be submitted as public comment.

III. D. Wastewater Management

Section 1 - Existing Conditions should discuss the historical functionality of the existing wastewater systems on site, any issues with failure/violations and mitigation measures implemented.

Section 2 - should include a detailed calculation of wastewater generation, separated by the uses on the site (residential, food service, education, etc.). Detailed plans should include the wastewater system components, conveyance, type/size of treatment practices and discharge location(s). Plant maintenance, effluent sampling, and reporting should be discussed. Impacts to the Neversink River should be assessed, with consideration given to any history of illicit discharges or violations.

III. E. Stormwater Management

Section 1 - Existing Conditions. The on-site volume of stormwater runoff and peak discharge rates for the 2, 10, and 100 year storms should be provided utilizing the Soil Conservation Service Technical Release Number 55. Calculation parameters such as soil types, ground cover, and time of concentration shall be verifiable in the report’s calculations. Include a discussion of the historical function of the existing stormwater systems on site, any issues with failure/violations and mitigation measures implemented.

Section 2 - Proposed Conditions should include an assessment of stormwater runoff quantity and quality impacts based upon the currently proposed development. The on-site volume of stormwater runoff and peak discharge rates for the 2, 10, and 100 year storms shall be provided utilizing the Soil Conservation Service Technical Release Number 55. Calculation parameters such as soil types, ground cover, and time of concentration shall be verifiable in the report’s calculations. Also, provide a discussion of potential thermal impacts to downstream water bodies/wetlands resulting from discharge from the developed site.

Thank you for your assistance in this matter and please don’t hesitate to call with any questions.

Sincerely,
Willingham Engineering, PLLC
Andrew Willingham, PE
NYS Professional Engineer No. 083984

cc: Gary Spears, Town Supervisor, Town of Deerpark
Al Fusco Jr., Consulting Engineer, Town of Deerpark
Paula Medley / Basha Kill Area Association
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