

**Town of Bolton
PLANNING BOARD
MINUTES
Thursday, May 19, 2005
6:00 p.m.**

SEQR = State Environmental Quality Review
PB = (Town of Bolton) Planning Board
WCPB = Warren County Planning Board
APA = Adirondack Park Agency
LGPC = Lake George Park Commission
DEC = Department of Environmental Conservation

Present: Chairman Herb Koster, Sandi Aldrich, Henry Caldwell, John Gaddy, Chauncey Mason, Don Roessler, Susan Wilson, Zoning Administrator Pam Kenyon, Town Counsel Michael Muller

Absent: None

Public Hearing: None

Regular Meeting

H. Koster opened the regular meeting at 6:05 pm by asking for corrections to the Thursday, April 28, 2005 minutes. There were no changes to be made.

Motion by C. Mason to approve the April 28, 2005 minutes as presented. Seconded by S. Aldrich. Six in favor. One abstained (D. Roessler, as he was not in attendance at the April meeting). Motion carried.

1) SPR04-35 VALLEY WOODS SUBDIVISION. VAJ Inc., LLC. Represented by Joe Pfau. In accordance with Chapter 125.13C1 of the stormwater regulations, seeks Type II Site Plan Review for a major project, specifically to remove more than 15,000 square feet of vegetation. 7.05 acres is proposed. Section 140.00, Block 1, Lots 1 & 3 into 15 lots, Zones RL3 & LC25. Property Location: Valley Woods Road and County Route 11. The WCPB determined no County impact with the condition that the applicant work with Warren County Soil & Water Conservation District in regards to stormwater and erosion control measures for the removal of the vegetation, road and driveway development, as well as other agencies as needed (DEC, APA). This application is to be heard in conjunction with SD04-27. This item was tabled at the March 24, 2005 meeting pending approval from Tom Nace, Town Engineer.

Art Baker, representing VAJ, Inc., LLC, said (1) he is present to seek final approval on the stormwater plan for the 15-lot subdivision on Valley Woods Road and (2) he believes Tom Nace reviewed and sent a letter of recommendation to approve the plan. P. Kenyon concurred.

The WCPB determined no County impact with conditions (see agenda item for specifics).

The PB found no concerns with Section 200-31A-D of the zoning ordinance and C1-C7 on the SEQR form.

Motion by J. Gaddy, based upon the approval letter from Town Engineer Tom Nace dated April 25, 2005, to accept the application as complete, waive a public hearing, and having found the application meets the criteria of Section 200-31, grant final approval as presented. This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. Seconded by D. Roessler. **All in favor. Motion carried.**

2) SPR05-14 SMITH, MARTIN. Represented by Bob Holmes of Jarrett-Martin Engineers, PLLC. In accordance with Section 125.13C1 of the stormwater regulations, seeks Type II Site Plan Review for a major project, specifically to remove more than 15,000 sq ft of vegetation, 25,000 sq ft is proposed. Section 170.00, Block 1, Lot 29, Zone LC25. Property location: west side of Edgecomb Pond Road approximately 1,800' from the Potter Hill Road intersection. Subject to WCPB review. Subject to SEQR. NOTE: Site Plan Review approval for a single-family dwelling was granted by the Planning Board on 11/18/04 under SPR04-17.

Bob Holmes, representing Martin Smith, said (1) this is a four-bedroom residence which the PB approved the site plan for previously, (2) they are now presenting a stormwater plan to control and mitigate any increases in the stormwater runoff from the proposed site plan development by proposing a basin to the west to take care of stormwater from the house itself and a shallow basin to the north of the driveway location to pick-up the increase of the impervious area from the driveway.

H. Koster asked if the PB needed to send the stormwater plan to Town Engineer Tom Nace, to which P. Kenyon answered by saying, no, she has reviewed this plan pretty thoroughly and she is pretty comfortable with it.

The WCPB determined no County impact.

The PB found no concerns with Section 200-31A-D of the zoning ordinance and C1-C7 on the SEQR form.

Motion by J. Gaddy to accept the application as complete, waive a public hearing, and having found the application meets the criteria of Section 200-31, grant final approval as presented. This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. Seconded by D. Roessler. **All in favor. Motion carried.**

3) SPR05-21 SOMMER, DONALD & SUSAN. Represented by Mike Tasick. Seek Type II Site Plan Review for a new land use within 250' of the lakeshore, specifically to construct a proposed 15' 5½" x 32' 1½" boathouse. Section 213.13, Block 1, Lot 60, Zone RCM1.3. Property location: 46 Lower Brereton Road. Subject to WCPB review. Subject to SEQR.

Mike Tasick, representing Donald and Susan Sommer, said the proposed project is for an open-sided boathouse to be built on a pre-existing U-shaped crib dock, which more than exceeds the setbacks.

J. Gaddy asked if there would be any lights, to which Mike Tasick answered, yes, there are six lights on the interior of the ceiling, which will shine down and not out onto the lake. H. Caldwell asked if there would be lights under the skirt and if lights would be recessed, to which Mike Tasick answered, the lights are recessed in the cedar tongue and groove ceiling itself. S. Aldrich asked if it is accurate that there will be no lighting on the deck at all, to which Mike Tasick answered that is correct.

H. Caldwell said this proposal is pretty straight forward, as it is being built on an existing dock.

The WCPB determined no County impact.

The PB found no concerns with Section 200-31A-D of the zoning ordinance and C1-C7 on the SEQR form.

Motion by H. Caldwell to accept the application as complete, waive a public hearing, and having found the application meets the criteria of Section 200-31, grant final approval as presented. This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. Seconded by S. Aldrich. **All in favor. Motion carried.**

4) SPR05-23 CHAPMAN, LAURA. Represented by Scott Quigan. In accordance with Chapter 200.47G2 of the Zoning Ordinance, seeks Type II Site Plan Review to temporarily place a transient mobile home on that parcel designated as Section 199.11, Block 1, Lot 2, Zone RL3. Property location: off Wall Street, between 972 & 982 Wall Street. Subject to SEQR. This item was last heard & approved by the Planning Board on May 20, 2004 under SPR04-16.

H. Koster said (1) this agenda item is a repeat for the third time and (2) Scott Quigan could not be present. J. Gaddy said this proposal is just for Don and Dotty Quigan, who travel out west and come in for a couple of months to visit family. P. Kenyon said this is the same location.

The PB found no concerns with Section 200-31A-D of the zoning ordinance and C1-C7 on the SEQR form.

Motion by D. Roessler to accept the application as complete, waive a public hearing, and having found the application meets the criteria of Section 200-31, grant final approval as presented. This motion includes a SEQR analysis and findings of no negative

environmental impacts with all aspects favorable to the application as presented. Seconded by S. Wilson. **All in favor. Motion carried.**

5) SD04-23 LAVIT JR., HENRY. Seeks to merge those parcels designated as Section 139.00, Block 1, Lots 70 & 71 and then divide the same into 3 parcels. Zones RR10 & LC45. Property Location: 394 & 416 County Route 11. Sketch Plan Review. Minor Subdivision. Subject to SEQR. Subject to APA review. This item was tabled at the March & April 2005 Planning Board meetings pending APA review.

Henry Lavit Jr. said (1) he was supposed to be represented by Dan Smith of Chestertown, who was not in attendance, (2) they are proposing a lot line adjustment and (3) the area is approximately a total of 84 acres, of which they are looking to reduce the size of the 5.5-6 acre lot to a 4 acre lot.

J. Gaddy asked if the shop will stay on the big piece of property and the house will be separate, to which Henry Lavit Jr. answered, that is correct. J. Gaddy asked what the small line on the west side represents, to which Henry Lavit Jr. answered by saying it represents the zoning line.

H. Koster asked if this is a two-lot subdivision, since one lot is being cut in half, to which P. Kenyon answered, (1) originally, the applicant applied for a three-lot subdivision and (2) the applicant amended the application, so all he is looking for is a lot line adjustment. H. Koster asked if the PB could vote on this application as it has been amended and P. Kenyon answered, yes.

J. Gaddy said (1) he is not sure what the intentions are for the property and (2) he wanted the applicant to be aware of the cutting restrictions on County Route 11. Henry Lavit Jr. said (1) he is aware of the cutting restrictions and (2) it is in the agreement, that whenever he sells the property, the hedgerow cannot be touched with the exception of a driveway being cut in.

The PB found no concerns with Section 200-31A-D of the zoning ordinance and C1-C7 on the SEQR form.

Motion by H. Caldwell to accept the sketch plan as complete, waive a public hearing, convert it to final plat and grant final approval as presented and amended for a lot line adjustment as opposed to a 3-lot subdivision as noted in the agenda. Seconded by S. Wilson. This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. **All in favor. Motion carried.**

6) SPR05-18 BIVONA, GARY & CHARLEEN. Represented by Michael Gargiulo. As a condition of approval set forth by the Planning Board on January 23, 2003, and in accordance with Section 125.13C1 of the stormwater regulations, seek Type II Site Plan

Review for a major project on Lot 8, specifically to remove more than 15,000 sq ft of vegetation: 36,200 sq ft is proposed. Section 171.07, Block 1, Lot 64, Zone RM1.3. Property location: Lot 8 of the Cobblestone Subdivision. Subject to SEQR.

Michael Gargiulo, representing Gary and Charleen Bivona, (1) introduced their engineer, Tom Hutchins from Hutchins Engineering and (2) said he believed there was a letter from Town Engineer Tom Nace approving the project.

Tom Hutchins said (1) they are proposing a 3300 square foot house on Lot #8, which is at the upper end of the Cobblestone Subdivision, (2) the wastewater system, which is located at the high part of Lot #8, was previously approved for the subdivision by the Department of Health, (3) they have an infiltration and retention area that will take runoff from the roof of the house and from some of the areas around the house, (4) they have a rip-rap drainage ditch and (5) based on discussions with Tom Nace, they have removed an infiltration trench from the lower section, due to a relatively shallow ground water condition and put in a smaller retention area. J. Gaddy asked if the retention area was at the level area where the former roadway was located, to which Tom Hutchins answered, yes.

Tom Hutchins said they are proposing access to Lot #8 over Lot #7 via an access easement written to the owner of Lot #8, in an attempt to minimize the slope of the driveway.

H. Caldwell said (1) he is a little concerned, because they are already having some stormwater problems on the road up to the cul-de-sac, (2) there is also some washout at the top of the cul-de-sac and (3) the applicant's road may address that problem. Tom Hutchins said (1) a lot of the area is exposed soil and is in a disturbed condition right now, (2) when there is exposed soil on steep slopes, there are frequently erosion issues, and (3) they will not leave exposed soil. H. Caldwell said (1) his concern is that if the rock-lined ditch coming down from the cul-de-sac on the left side of the road gets filled with sediment, it will no longer be functional, (2) he thinks it is unstable where the bank is washed out and (3) when the applicant puts the driveway and ditches in, it might cure that problem. Michael Gargiulo said (1) they are addressing the couple of washout areas on the subdivision road with Ellsworth Excavation and (2) they are going to redirect some of that water back down to the deep trench area, but are waiting until they get approval.

J. Gaddy said the applicant has approximately 35' up to the existing grade, which will require a lot of maintenance in the wintertime and asked how the trenches are going to be maintained, so they won't get clogged up along the way. Tom Hutchins said (1) there are going to be sand issues and (2) it will be the owner's issue to maintain the trenches. J. Gaddy asked what type of life expectancy the trenches will have, and Tom Hutchins answered by saying (1) he estimates it would be a ten-year period, then the material in the rip-rap would likely have to be addressed and (2) rip-rap is the nicest thing they can do for a steep ditch, because it keeps everything on the hill.

H. Koster asked if the subdivision has a stormwater maintenance agreement with all the parties involved, to which P. Kenyon answered by saying, yes for the road and it was agreed upon that each lot would come back for a major stormwater plan when it got developed and Counsel was in agreement.

H. Koster said the applicant wrote up a maintenance agreement with the Town of Bolton to maintain Lot #8. P. Kenyon said the problem is that when there is a major stormwater plan, a maintenance agreement is needed and she asked if an applicant who owns a parcel who has to come in for a major stormwater project still requires a maintenance agreement. H. Koster said the maintenance agreement should go to the homeowners of the subdivision, not to the Town, because the Town does not own the road or the stormwater, to which Counsel responded by saying, the applicant followed the instructions that the code provides.

Tom Hutchins said specifically with infiltration, there are some conflicts within the book that they discussed with Tom Nace as follows; (A) the 2' separation from an infiltration trench to groundwater and 10% of the infiltration surface area below the prevailing frost depth or 4', whichever is greater, (B) there is another statement in the code that says if the two aforementioned requirements conflict, then the separation of groundwater can be waived.

Counsel said (1) he is going with what the code originally provided, in that each of these lots are basically going to enter into a maintenance agreement with the municipality, (2) the reason why is that if the trenches are not kept up and maintained, the Town is a beneficiary of this agreement and the Town can do something with that landowner to enforce the maintenance and (3) if the PB has this agreement run only to the benefit of the homeowner's association, the Town is no longer a party to that which it really, by code, should be a party to and (4) the applicant's maintenance agreement is okay.

H. Caldwell asked if the proposed 32,500 square feet of vegetation to be removed was solely for the road, house, sediment pond and septic system, to which Tom Hutchins answered, that is the area inside the disturbed limit line, shown by the dotted line on the map, which does include the septic system.

S. Aldrich asked if the septic area, which was approved by the Department of Health, was the only location the septic could be put, and P. Kenyon responded by saying (1) yes, that is the area for the septic that was approved by the Town of Bolton and the Department of Health and (2) if the applicant makes any changes to the septic location, they will have to go back to the Department of Health.

H. Koster asked if the applicant intends to clear the whole area marked by the clearing area line drawn on the map, to which Tom Hutchins answered, (1) they will try to minimize clearing as much as possible and (2) it is a big raised wastewater system. Michael Gargiulo said (1) it is the same design as originally presented and (2) they had to go back to P. Kenyon to increase the size of it, because that was the size required by the LA Group. H. Koster said (1) when working with a raised system, the applicant does not

need to clear beyond the system, because there are no pipes on the perimeter, (2) he is trying to obtain less clearing and (3) the applicant can let the basal area go right to the dotted line of the bottom of the slopes to retain a lot of vegetation, to which P. Kenyon agreed. H. Koster asked why the applicant plans to clear below the lower pond, and Tom Hutchins replied by saying that is the water line entrance. Michael Gargiulo said (1) lots of disturbed area already exists and (2) their intention is not to take down all of the large trees. J. Gaddy said he is concerned because (1) it has been cleared already, (2) the road is in, (3) it will be visible from the lake, as this is going to be a steep lot where the peak of the house would be approximately 70' above the roadway and the applicant has proposed a beige house color, (4) the PB is looking to avoid the removal of trees in order for the applicant to get services in there and (5) the regulations say the applicant has 20' around the house to clear and the dotted lines seem to be a lot more clearing than the 20', so the PB would like to tighten the clearing up. H. Koster said (1) the applicant has 1.44 acres and is asking for 32,500 square feet of clearing, which constitutes more than half of the lot and (2) there has to be a way for the applicant to reduce the clearing area. Tom Hutchins said (1) he can tighten up the clearing area by the basin, the driveway and the sediment tank/pump station area, along with other areas pointed out on the map (2) he can't do much around the wastewater system and (3) he prefers not to have the drip line or large trees over the system. H. Caldwell said using the drip line, the applicant would have to cut trees on the neighbors' property. H. Koster said the applicant can also bring the water line up closer to the driveway. Michael Gargiulo said (1) some of the areas are already cleared, so it is not like they will be taking many additional trees down, (2) the proposed location for the house is already mostly cleared and (3) the trees on the edge of the bank have to come down. S. Aldrich referenced the house in Diamond Ridge and its disturbance limits, to which J. Gaddy responded by saying (1) in that situation, he spoke with P. Kenyon and the disturbance limits for the house were spray painted on the ground and (2) Tom Nace suggested that for site plan, the PB should have the applicants of future projects stake out or flag the areas of disturbance for the clearing limits.

J. Gaddy said (1) the PB has had discussion and has received correspondence from the APA looking for the colors of houses to match the existing vegetation, (2) he feels the proposed beige color for the house will make the house more visible from the lake and (3) while he approves of the green roof, he would like to see the house color darker. Michael Gargiulo said (1) the roof is a dark green, (2) the house colors are earth tones, with muted beige siding for the house with the house base in natural stone, the trim will be the lighter green shown in the color chart, there will be dark green used for brackets and other accents and (3) he feels if the proposed colors were any darker, they would not blend in any better in the surrounding landscape. S. Aldrich asked if the roof color is about the same color as the dark trim and Mike Gargiulo answered, yes. S. Wilson said the house will also be seen from Route 9N in the winter time and if it is too dark it will stand out more. H. Koster agreed and said the Town Board has recently asked the PB to architecturally review some of these houses that are very visible from the scenic corridors, especially from the lake. Michael Gargiulo said (1) he didn't want to see another red cedar house with green windows and red trim, (2) has tried very hard to find a color balance for the house that would not stand out uncomfortably from the landscape, (3) they kept a dark green roof which helps work with shading (4) they have natural stone

on it to bring the lines of the house down as it is being looked upon, (5) they have buried the garage under the house with a side entry, so it is not visible from the road, (6) aesthetically, he feels they have done about everything they can to minimize the house, (7) he is comfortable with the colors they have chosen and feels they are not obtrusive in any way, (8) changing the colors is not a simple process and (9) the bottom line is the house is on a hillside. H. Koster said he does not feel beige color chosen is offensive and H. Caldwell said, beige scares him, but as long as it remains the muted beige color that was chosen, along with the darker trim, the colors should work out.

J. Gaddy said (1) he has a concern with the lighting and (2) the lighting needs to be downward facing and shielded, especially to decrease any glare from the lake. Michael Gargiulo said (1) all the lighting on the house is downward facing, (2) there is recessed lighting on the porches, (3) there are a few sconces with obscured glass that are open on the bottom and (4) there is one fully-shielded security light in the back of the house on the up-hill side away from the lake so the owners can walk their dog.

H. Caldwell asked what the construction schedule is, to which Michael Gargiulo answered by saying (1) they are wrapping up two projects right now and need to get moving on this project in order to keep his employees working through the summer and (2) if the PB gave them approval, the next step would be for them to start the building permit process.

J. Gaddy (1) asked if there is any way the applicant can do some plantings after the excavation is finished by selecting a species of trees that will enable the owner to still look out to the lake, but also break up the direct view of the house from the lake and (2) said the concern is that when homeowners come in when there has been clearing first, then clearing for the house, more trees come down and there is no guarantee of keeping trees up there. Michael Gargiulo said (1) the location of the house is meant to leave as many of the existing large trees in place and (2) there is a minimum amount of work they can do with the trees in the location where the septic system will go, due to the groundwater conditions. H. Koster said the applicant will wind up raising the groundwater by taking out trees and (2) it would work a lot better for the PB if the applicant reduces the clearing area. D. Roessler said the application shows total land disturbance at 26,000 square feet and the agenda item shows 32,500 square feet, and Michael Gargiulo said (1) the 26,000 square feet was from when they first applied in April, before they had to make the changes for the basal area and (2) the correct number for the disturbance area is 32,500 square feet as the agenda item states. Tom Hutchins said he could make clearing reductions to meet an approximate figure of 30,000 square feet. H. Koster said the PB would need a map on file showing the clearing reductions. Michael Gargiulo asked if it would be acceptable for them to red pen the lines in on the presented map and sign it tonight, then provide a revised map showing the reductions to the Zoning Office tomorrow and P. Kenyon answered that she has no problem with that as long as the applicant puts on the map presented tonight what they are willing to do and present her with a revised map tomorrow. The applicant penned in the proposed changes in clearing limits on the map, signed it and gave it to P. Kenyon for the Zoning Office.

The PB found no concerns with Section 200-31A-D of the zoning ordinance and C1-C7 on the SEQR form.

Motion by J. Gaddy to accept the application as a work in progress, working toward a complete application once the revisions as shown in red on the map as discussed are provided to Zoning Administrator Pamela Kenyon for review and approval, waive a public hearing and having found the application meets the criteria of Section 200-31, grant final approval with the condition that the lighting be downward-facing and shielded. This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. Seconded by D. Roessler. **All in favor. Motion carried.**

7) SPR05-24 DOMERS GOLDEN PROPERTIES. Represented by Michael Gargiulo. As a condition of approval set forth by the Planning Board on January 23, 2003, and in accordance with Section 125.13C1 of the stormwater regulations, seek Type II Site Plan Review for a major project on Lot 4, specifically to remove more than 15,000 sq ft of vegetation: 32,500 sq ft is proposed. Section 171.07, Block 1, Lot 56, Zones RM1.3 & RL3. Property location: Lot 4 of the Cobblestone Subdivision. Subject to WCPB review. Subject to SEQR.

H. Koster said the applicant has a similar problem here, as with the previous agenda item, with clearing limits that can be reduced. Tom Hutchins, engineer for Dormers Golden Properties, said (1) this lot is simpler as it is not as steep and the house area is more open, (2) there is a raised septic system on the site that was approved by the Department of Health and (3) he used two separate smaller infiltration retention areas.

H. Caldwell asked if the applicant would be able to leave some trees in the area between the septic system and the house, to which Tom Hutchins answered by saying, yes. Michael Gargiulo said the only disturbed area by the septic system would be to gain access to get in and out with equipment. S. Aldrich asked if the 6-7 trees between the road and the house site would stay and Michael Gargiulo answered, yes, they would only need to provide a 12'-20' wide access path on the lake side, so the trucks could get to the area for the septic system. J. Gaddy asked about the path width and Michael Gargiulo said the 12' wide path is a practical measurement. D. Roessler asked if there are very few trees in front of the house toward Cobblestone Drive, to which Michael Gargiulo answered, yes, there are five or six trees sporadically placed in the field there. J. Gaddy asked if the applicant could get the septic pulled closer to the house, since a fill system can be built anywhere and the house area is already cleared. H. Koster said if the septic was to be moved closer to the house, then the trees between the septic and the house that H. Caldwell wants to stay would have to be eliminated. Tom Hutchins said regarding the wastewater system, (1) he can't say that it can't be moved, but looking at the soil data and where the test pits were, even a minor change would create the need for the applicant to go back to the Department of Health for approval and (2) moving the septic system makes sense to him and the Department of Health may even be agreeable to it. J. Gaddy said (1) the septic system could be moved closer to the house and (2) they are looking for

more vegetation on the site and perhaps more planting could be done by the applicant to maintain a buffer zone between Route 9N and the house. H. Caldwell said he thinks adding trees between the house and the septic system would be important, which is the way it is laid out and shown. J. Gaddy asked how far the property goes to the east and Tom Hutchins answered by saying the property goes east all the way to Route 9N.

H. Koster asked if the applicant can tighten up the clearing area around the septic area, between the septic and the house, and Tom Hutchins answered by saying, yes. H. Koster asked if P. Kenyon would like the applicant to make the revisions to reduce the disturbance areas on the map, have it submitted tonight so it is on file with the Zoning Office and have a new map showing the revisions brought to the Zoning Office tomorrow by the applicant, to which P. Kenyon said yes. The applicant penned in the proposed changes in clearing limits on the map, signed it and gave it to P. Kenyon for the Zoning Office.

H. Koster asked the proposed color of the house on this site and Michael Gargiulo answered by saying (1) the color will be pumpkin and (2) this is not a lake view house, so it will not be seen from the lake or from Route 9N.

The WCPB determined no County impact.

The PB found no concerns with Section 200-31A-D of the zoning ordinance and C1-C7 on the SEQR form.

Motion by J. Gaddy to accept the application as a work in progress, working toward a complete application once the revisions as shown in red on the map as discussed are provided to Zoning Administrator Pamela Kenyon for review and approval, waive a public hearing and having found the application meets the criteria of Section 200-31, grant final approval with the condition that the lighting be downward-facing and shielded. This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. Seconded by S. Aldrich. **All in favor. Motion carried.**

8) SD05-11 BAER, GEORGE & MARY. Represented by Dave Barnes of The LA Group. Seek to divide into 7 lots (6 building lots & 1 common area) that parcel designated as Section 186.14, Block 1, Lot 60, Zone RCH5000. Major subdivision. Sketch plan review. Subject to SEQR.

Dave Barnes, representing George and Mary Baer, said (1) they are looking to subdivide the property into six single-family lots and one common lot, (2) they are proposing five additional new lots in addition to the existing single-family home lot, (3) each lot will have a minimum of 20,000 square feet except for the common area, which will have 17,300 square feet, (4) each proposed lot will have a 30' x 50' building pad in which the living quarters will be situated, (5) the closest lot to the lake is approximately 400' from the lake and (6) the lots will be served by an 18' access drive with a cul-de-sac, (7) there

will be a community septic system, (8) they are going to maintain the beachfront amenities that already exist, consisting of a 70' long dock, beach area, and some picnicking facilities up above the beach, (9) the current walk that exists will be replaced with a permeable surface walk, (10) each lot will have infiltration trenches around the roofline and around the driveway and (11) he gave an overview of how they have addressed previous PB concerns and incorporated them into this proposal.

J. Gaddy said (1) he likes the proposed plan with the cul-de-sac moved back and (2) he is concerned that the agenda says the applicant is looking to remove 90,000 square feet of vegetation. Dave Barnes said (1) the property is 3 1/4 acres or approximately 140,000 square feet and his guess is that lawn areas are considered in that proposed 90,000 feet of vegetation removal, so there is no way they would be removing that many trees and (2) the application says "total land disturbance (must include all grading, excavating, filling, paving, construction, vegetation removal, demolition) so that is where the 90,000 square feet comes from—it is not all vegetation removal.

S. Aldrich asked if the house on Lot #5 would require any tree removal and Dave Barnes answered by saying, it will require some tree removal. S. Aldrich said there is a very definite line in the ledge before it drops down to the lake and asked if the house lies to the west of that rise and Dave Barnes answered by saying, (1) yes and (2) they are proposing minimal cutting. S. Aldrich asked if the house on Lot #5 would require any blasting, to which Dave Barnes answered by saying, possibly.

H. Koster asked why the side lot line setbacks are 8' and 12' and Dave Barnes answered, that is what is required by the code and they are showing they are meeting that minimum requirement. P. Kenyon said an applicant can go down to 8' on one side as long as they maintain 12' on the other side for a total of 20'. H. Koster asked if by showing the 8' and 12' requirements, that the applicant is establishing what needs to be maintained on each lot and Dave Barnes answered, yes.

H. Koster asked if the proposed 30' x 50' envelope for each house is the envelope that the owners will have to build in, to which Dave Barnes answered by saying (1) that is the envelope they are saying the owner will have to build the house/living area in and (2) that is not necessarily the area that all the structures of the site would be built in. H. Koster asked as an example, if the house on Lot #5 could be moved any closer to the lake and Dave Barnes answered, no, once the PB approves the proposed plan, that's where the house/living areas will be, as shown on the drawing, and they will not be able to be moved.

J. Gaddy asked if the applicant has made any revisions for recreation for the project, to which Dave Barnes answered, no, they already have a picnic area and sunbathing provided in the proposed common area.

H. Koster said basically the applicant has done everything the PB asked for and Dave Barnes said (1) they looked at this plan in many ways in terms of subdividing the land

and it is difficult to make it work, (2) this is the solution they came up with to make it work.

The PB found no concerns with Section 200-31A-D of the zoning ordinance and C1-C7 on the SEQR form.

Motion by H. Caldwell to accept the sketch plan as complete, convert it to preliminary plat and schedule a public hearing for 6 pm on Thursday, June 23, 2005. Seconded by D. Roessler. **All in favor. Motion carried.**

9) SPR05-25 BAER, GEORGE & MARY. Represented by Dave Barnes of The LA Group. In accordance with Section 125.13C1 of the stormwater regulations, seek Type II Site Plan Review for a major project, specifically to remove more than 15,000 sq ft of vegetation: 90,145 sq ft is proposed. Section 186.14, Block 1, Lot 60, Zone RCH5000. Property location: 4618 Lakeshore Drive. Subject to WCPB review. Subject to SEQR.

H. Koster asked if the PB is looking for the applicant to come back on this item for site plan review and D. Roessler answered by saying, yes, when somebody wants to build a home, the PB should have the lot owner come back for site plan review, so each individual lot can be reviewed for the house structure the lot owner wants to put up. H. Koster asked if each individual lot should come back for review, even if the proposed house would be within the envelope and J. Gaddy said the living space is not going to go outside the envelope, but living space does not include a covered porch or a deck or a garage. H. Koster (1) said the PB is talking about making this project similar to the restrictions it put on Bluebird Cottages, where they had to come back to the PB to go beyond the envelope limits, (2) said there is nothing that will be viewed from the lake here and (3) asked if the PB still wants each individual lot owner to come before the PB for review if they are going to stay within the envelope limits. J. Gaddy said if each individual lot owner stays within the envelope limits that would be fine. Counsel said it is a two-step process for stormwater, the whole subdivision of all the lots and each time somebody comes back to build on a lot. Counsel asked if the PB would be looking for site plan reviews on each individual lot also and J. Gaddy answered, yes, if the house goes beyond the envelope limits. H. Caldwell said (1) the PB cannot approve stormwater tonight anyway and (2) basically the PB will table this item until next month, to which Counsel responded by saying (1) that is correct and (2) the PB may want, at this juncture, ask some questions of why, and then the questions can be shipped right to the engineer so he can analyze it. H. Koster said he feels on the last project that is directly north of this, when they are this tight and this close, he feels the stormwater should be all combined together at this point, and Counsel responded, yes, the PB is doing this comprehensively on stormwater, but he is getting a little concerned, as the Town of Bolton is in a consent over this as it will do this comprehensively, and with known facts, as buildings are built on particular lots, the Town will revisit the issue. P. Kenyon asked if the applicant did stormwater for each lot and Dave Barnes responded by saying they have not done stormwater for each lot, in the sense that they don't know what is going to be built on each lot, but they have made assumptions about each lot and used those calculations to

design the stormwater. H. Koster asked if the assumptions are strictly the lot envelope and Dave Barnes answered, they assumed the 1,500 square foot lot envelope and additional square footage for garages, decks, porches and a certain size driveway. H. Koster is afraid that later on, after something this tight is approved, that there might be too much impervious area, so stormwater might not work and that is why he is asking for it in one package as opposed to segmented, as the PB did on larger lots. Counsel said if the PB can tell the Town Engineer that it is directing the applicant to, in a sense, hypothecate the typical, with the knowns and unknowns, what will be within the building envelope and the applicant's best guess of what will be outside the envelope, present it to the Town Engineer and if he says he is comfortable with that, then Counsel thinks that's the applicant's discretion falls, if the applicant has done all that is required in the two-step stormwater process. H. Koster asked if the applicant will list the square footage for each lot that is planned for each lot, so P. Kenyon will know when presented with an application if the proposal meets the envelope limits or if the applicant is asking for more square footage than the envelope is designed for, to which Dave Barnes answered, yes, they have assumed 3,100 square feet for each lot. Counsel (1) asked for H. Koster to make a distinction between what the PB is doing here and what it did with Bluebird Cottages, which required a two-step process and (2) said that with this project, all the calculations are going to be built into the comprehensive presentation. S. Wilson asked if all the calculations were included in the first set with Bluebird Cottages, and Counsel said no, but as the applicant's representative can tell you, the LA Group could have included them for Bluebird Cottages, had they been asked. H. Caldwell said this sight is tighter and Counsel said (1) he agreed, (2) the PB made the exception, but have made the case for the exception, (3) he would like to see the PB try to keep that system in a two-step process, especially when looking at places like Cobblestone, where it is entirely appropriate and (4) the exception is ruled by if the PB can comprehensively get a plan and in this case, they probably can, which will be determined by Town Engineer Tom Nace. Dave Barnes asked if the two-step process meant that each homeowner would need to come back for site plan approval and H. Koster answered by saying, not in this project if the homeowner stays within the design of impervious area. Dave Barnes asked if the homeowner would still require a building permit, in which they would have to demonstrate that they are meeting the stormwater requirement and H. Koster said, yes, but all Dave Barnes needs to do is give the homeowner the 3,100 square footage, and it can be seen it can meet it, but if the homeowner's house goes beyond the envelope (exceeds the 3,100 square feet) then the homeowner would have to come back for site plan review for stormwater plan by the homeowner that would need to be major stormwater plan, since the homeowner would be tying into a system that is designed for a maximum per lot and if the homeowner increases that maximum, the homeowner will need to go through the expense to show the ability to handle it and if it can't be proven, the homeowner would have to cut down the size of the house. Counsel said H. Koster was correct.

H. Caldwell said at this juncture the PB is ready to have Town Engineer Tom Nace review the project and table the item until next month. P. Kenyon asked what the PB wants to do if Tom Nace has concerns and H. Koster said if Tom Nace has concerns that

can be resolved before the next meeting that is fine, because the PB has already looked over all of the stormwater.

The WCPB determined no County impact.

Motion by H. Caldwell to table the application until next month pending review of the plan by Town Engineer Tom Nace. Seconded by S. Aldrich. **All in favor. Motion carried.**

10) SD04-16 SADDLEBROOK SUBDIVISION. Rolf Ronning. Seeks to amend previously approved plats (SD03-19 & SD04-05 formerly known as Mowery/High Meadow Farm), specifically to divide into 24 lots that parcel designated as Section 139.00, Block 1, Lot 48, Zone RL3. Access is proposed to be gained through Section 139.00, Block 1, Lot 46.1. Property Location: 83 High Meadow Farm Road. Major Subdivision. Sketch Plan Review. Subject to SEQR. This item was tabled last month pending additional information.

Rolf Ronning (1) pointed out four typographical errors on the maps submitted for tonight's meeting, (2) said they have located the guardrails, (3) they addressed PB's concerns from last month's meeting and (4) asked if the PB would allow for 1:1 slope if the whole slope is rip-rap or stone-lined to create a less of a widening effect with the cuts and disturbance. H. Koster said the PB goes for a 3:1 slope and allows for a 2:1 slope when deemed appropriate, to which Rolf Ronning responded by saying the PB has allowed 1:1 slopes, which would be more appropriate in some spots. H. Koster said the PB has allowed 1:1 slopes, but it depends on the soil.

H. Koster asked if Rolf Ronning read the letter from Nace Engineering dated May 10, 2005, and Rolf Ronning answered, yes, Dennis Dickinson has complied and thinks he'll have everything in by next Tuesday. H. Koster said (1) the PB does not have anything on it, (2) there are concerns by Town Engineer Tom Nace on 42 different items that the PB has no answers to. Rolf Ronning said (1) P. Kenyon will not accept anything two weeks prior to the meeting and asked what the point is in him trying to provide something to the PB when the letter is dated May 10, 2005, which is less than two weeks before the meeting and (2) they have been working diligently on this and the PB will have a corrected stormwater well before two weeks of the next PB meeting. H. Koster said (1) the PB cannot evaluate any of the stormwater questions without Rolf Ronning's engineer's resolves to Tom Nace's concerns, (2) the stormwater relates to the area of the road in some places as being tight to the brook and the wetland, so he cannot ask the PB to give Rolf Ronning answers on the placement of that road until they have answers to Tom Nace's questions and (3) asked Counsel his opinion on the 42 concerns from Tom Nace. Counsel said (1) he totally agrees that the PB cannot review anything on subdivision or stormwater without the answers to the Nace questions and (2) it is an exercise in futility, as it is 42 big things. This discussion was continued in a back-and-forth fashion for a lengthy period of time with the same conclusion that the PB cannot

evaluate the proposed project without answers from Rolf Ronning's engineer to the questions posed in Tom Nace's letter dated May 10, 2005.

H. Caldwell said at the last meeting he asked for construction detail and the bedding that would be used for the culvert be added to the map, to which Rolf Ronning responded by saying, it is on the maps on B-1. H. Koster said he believes what H. Caldwell is looking for is method of construction, he is interested in that stream and what exactly the applicant has to do to that stream to lay the culvert pipe in it, what the preparation is and what the protection to the stream is and H. Caldwell agreed. Rolf Ronning said (1) he is not sure stream crossings are PB jurisdictional, as they don't require a building permit and the only permission he needs is from the DEC and Army Corps of Engineers and (2) he believes that if he wanted to put a culvert in the two places shown on the map, he could do it with the DEC and Army Corps of Engineers permit processes and by not going through the Town, as he did on Hendricks Road last week with a big, huge culvert. H. Koster said (1) if this Town has a problem with putting a road on top of it, you could have a pipe sitting out there in the middle of nowhere and (2) the applicant says he can put a culvert in with an ENCON permit and that the Town/PB has nothing to do with it and H. Koster is unsure of that being true, but the Town/PB has control over the road that goes on top of it and if the Town/PB doesn't like what the applicant is doing, the Town/PB can stop that, so the applicant can have a culvert out in the middle of nowhere with nothing going over the top of it. Rolf Ronning said he would still have a road, but he guesses it wouldn't be for a subdivision. H. Koster said the PB learned the hard way with a stream culvert before, which was approved by ENCON, everything went through, then nothing was built the way it was drawn, (2) the PB got burned and got burned in a good way and he wants to make it clear that it was not by this applicant and (3) the PB wants to be more specific this time is exactly what's going on, which is why they are requesting the aforementioned information.

J. Gaddy asked if the applicant has received any determination from the APA on this project, and Rolf Ronning answered by saying, (1) he has talked to Dan Smith every week and he has written several letters and (2) there has been no APA response. Counsel (1) said he called Dan Smith and wrote him a letter, to which he has received no response and (2) asked the applicant to remind Dan Smith to call him with the APA status, so Counsel can report it to the PB. Rolf Ronning said he'd contact Dan Smith.

J. Gaddy said he would like to make a motion that the PB to look at this project from a cumulative effect. Rolf Ronning (1) said he does not have the intention to develop that parcel (139.00-1-46.1) at this time, (2) said he can only speculate what another owner may want to do with the property, and (3) asked what the PB is looking for him to provide in regard to the potential use of the property. J. Gaddy said the applicant is developing the property by the fact that he is putting in a road and H. Koster replied by saying that what the applicant is asking for is a road and not home sites. Counsel said (1) if where the PB wants to go is to know what the potential impacts are comprehensively, if a road is put in there, he doesn't know what completely the applicant has in mind, but certainly the zoning ordinance permits the applicant to do something with that parcel, so in that hypothetical sense, the PB can give consideration to the possibilities of the

potential for the development of that potential site, which is all part of the SEQR process, and the applicant would need to make educated guesses and (2) the applicant could say he has no present intention of developing the property, which is an honest statement and okay, but J. Gaddy made a mission to understand what comprehensively could be done. Rolf Ronning said (1) there would be 18 5-acre lots or 30 3-acre lots, (2) he would guess if someone wanted to develop the property, they would go with 5-acre lots to avoid the Department of Health and (3) he will do whatever the PB wants, but he is not planning on developing this property and the PB is asking him to draw designs of things he has no intention of doing. H. Koster asks if the applicant puts himself in a box if he gives theories of what could be done with the land, then the PB could require him to prove the theories, which would mean the applicant would have to do all the engineering and Counsel answered, no, the PB is basically evaluating the potentials. S. Wilson asked if that is a requirement of SEQR, to which Counsel answered by saying, it could be, as one could argue if the PB failed to do it, perhaps the PB is segmenting the process. H. Koster asked what the PB is looking for from the applicant and Counsel said (1) J. Gaddy brought up a valid point, (2) should it occur to the PB Members that this is what they want, then the applicant what the potential development aspects on the next adjacent lot that is co-owned by the applicant, (3) if all the PB Members say they are good with it and see no negative aspects, then the applicant has gone through the process, it has withstood analysis and it is fine, (4) he thinks J. Gaddy's point is that there are possible effects that need to be discussed, (5) he would guarantee the applicant that what he would never tell the PB that what he wants the applicant to do is to draw some more plans on the other piece to see all the lots and where they would be situated, but that is not what he has in mind and (6) he thinks generically, the potentials for what might be developed on the next adjacent site. S. Wilson asked if the PB could just base it on their knowledge of what could possibly exist on the site and Counsel replied by saying (1) the PB can and as long as it is correct, that is a good way of doing it and (2) he accepts the applicant's rendition, which is an acceptable proposition of what could be done to that property. H. Koster said that doesn't put the PB in a box in the future, because the PB can put conditions on that parcel for the future. Counsel said (1) that is correct, (2) the PB is not putting itself into a box in the sense that it is not a commitment on the PB's part that next time when the property comes up that the PB is guaranteeing that is what will be granted, it is not a commitment on the applicant's part, nor is it a commitment on that property should it has a different owner, it is just the PB's best educated guess based on its analysis and conclusions and (3) what starts to tie it together is that the applicant owns this property and co-owns the next adjacent property and if that concerns the PB, J. Gaddy has a motion and he needs to explain the motion.

H. Koster said he understands it from a traffic situation on County Route 11 and the use of the proposed road, to which Counsel responded, it is not his advocacy, but, for example, maybe that is why the proposed road should be a Town road. J. Gaddy said (1) he lives in that neighborhood and does not see how the people are going to use that proposed road to get back and forth, (2) even with the potential of development in North Bolton with that one 250-acre lot that is north of Prossers, he doesn't see a large number, so that argument doesn't seem to hold and (3) he feels the PB needs to look at this from a cumulative effect kind of potential.

H. Caldwell said his biggest concern is Indian Brook, to which Rolf Ronning responded by saying, the road should have no effect on Indian Brook and (2) the whole idea of stormwater is that anything that is going to be approved by the PB has to be approved by the Town Attorney and the whole idea is that nothing changes from what goes in there now. J. Gaddy said it just seems crazy not to look at this as a cumulative effect if the PB has two contiguous pieces of property connected by a road being developed by the applicant, as there is a potential for greater development. Rolf Ronning (1) said he has no intention of developing the property, (2) said he can theorize and place house sites and driveways that may be developed, and (3) asked what the PB wants him to do. S. Wilson said (1) she doesn't think the PB wants the applicant to do anything, (2) she thinks the PB just needs to make its decision on the knowledge that that property has the potential to be developed. Counsel said (1) he had P. Kenyon get the Environmental Assessment Form, (2) he is not suggesting that the PB has a problem, but part of that analysis is growth, subsequent development, related activities likely to be induced by the proposed action and (3) it would seem putting a road through the property is possibly something that is likely to induce road and subsequent development, but that is the PB's call, not his call. J. Gaddy said (1) he is asking the PB to look at this as a cumulative effect on the Town if this is going to be a Town road as the applicant is pitching this as and (2) this is something that is going to be growing into a bigger development, not through Rolf Ronning's process, but by the sheer factor that this road is connecting these two pieces of property. H. Koster said the applicant keeps asking what kind of information J. Gaddy wants and J. Gaddy responded by saying, this is going to be effecting and detrimental to Indian Brook and Lake George. Rolf Ronning said he is doing stormwater for the road he is building and everything he disturbs to build the road, but the rest is hypothetical and at the time someone else comes along to do something with the property, they will have to come to the PB. H. Koster said J. Gaddy needs to provide the applicant with some parameter for what he is looking for. S. Wilson asked if J. Gaddy is asking the applicant or the PB, to which J. Gaddy answered by saying, (1) he is asking the PB if it in the opinion that it has to consider the cumulative effect of how this road is going to be impacting the future development of the town, (2) he knows the applicant has consistently answered in the negative and (3) he is throwing this out to the PB, as the PB is supposed to be looking at the future growth of the Town. Again, H. Koster said the applicant needs parameters. Counsel said (1) one idea or concept is as Rolf Ronning said, which is that if you allow a road to run through 90 acres, it has the possible potential of being developed as residential lots, characteristically, the most likely development scenario is a maximum of 18 5-acre lots and although it is also possible to have more houses, the logical scenario is to have these 18 lots, because you wish to avoid the Department of Health regulations and other requirements, (2) the PB would need scenarios on other topics it is concerned with, like Indian Brook, and the PB needs to give information as to the information the PB is seeking from the applicant, because for the PB to just generally say that 18 houses would not be good for Indian Brook, would not be enough. H. Caldwell said the PB would have to answer it in the SEQR and Counsel said, (1) yes, exactly, that is if the PB is trying to do an honest job of it, a PB member may have a concern with C1-C7 and it would need to be discussed, (2) he does not know what else the PB has in mind and (3) the applicant should not go overboard and think he is

being asked to do the next subdivision, because that would not be right. S. Wilson asked what a positive declaration would require for SEQR and Counsel answered, (1) it would require further study, (2) he doesn't want to pre-judge it, but it could get to the point where the PB might have to have an impact statement or a study done, (3) there's also at every level and every stage of the analysis, opportunities on the part of the applicant to mitigate what appears to be some sort of a problem, (4) in fairness to Rolf Ronning, the PB has to be able to identify what the issues are that it wants to explore, not just that there is a problem, and (5) he guesses he wouldn't even be discussing it or steering the PB in this direction, if there wasn't co-ownership and there wasn't a road going through it, but he doesn't think the PB is stretching it here. H. Caldwell said especially when this road isn't needed, as there is already a road onto this piece of property, so coming in from County Route 11 is not even necessary.

From the public, Chris Navitsky, Town Water Keeper, said there is one step between the short form and the Environmental Impact Statement, and that is the long form, which has 10 pages of questions and he thinks the PB will get a lot of information from that, to which Counsel replied, that is correct.

J. Gaddy said (1) already the concern of the fire department was getting the water in there, and getting the water to fire protection is another aspect the PB should look at as a cumulative effect and (2) he said they are a PB, he has always felt the PB has reacted, and if the PB plans, it can look at these things ahead of the fact.

Rolf Ronning again, asked for specifics of what the PB wants. H. Caldwell said it would be determined by SEQR and S. Wilson said it won't go to SEQR until the application is accepted as complete. H. Koster said the PB is getting side-tracked from the 42 concerns from Tom Nace need to be addressed before this application can move forward.

Counsel suggested (1) the PB table the item for Rolf Ronning to complete the 42 problems to the satisfaction of the Town Engineer and (2) include J. Gaddy's motion, which may be for the short-term, that the PB will tonight give the applicant the long form questionnaire to complete, as his answers may very well close the possibility that the PB needs to explore further or it will open it up to the questions that seem to be ill-defined here tonight.

Rolf Ronning said (1) he will complete and submit the long form and (2) he would like for the PB to schedule a Public Hearing and if for some reason his engineer and Tom Nace cannot be in agreement, then the Public Hearing can be cancelled and H. Koster said he feels very uncomfortable going with the Public Hearing route. Counsel said he does not want the PB to schedule a public hearing if it does not have a complete application. Rolf Ronning (1) said he will fill out the long form, (2) said he will work on the 42 details in the letter from Tom Nace and (3) asked if Tom Nace could be in attendance at the next PB meeting so this thing could get going someplace. H. Koster said Tom Nace answered Rolf Ronning's drawings within six days, which is a very reasonable amount of time.

H. Caldwell asked if the deed has changed for the Budner agreement, to which Rolf Ronning answered by saying, he does not think the deed has transferred, because he is waiting to be told when the closing is for the lot line adjustment the PB approved last year for two acres of land goes to add on to Budner's piece, he went from 3 acres to 5 acres. P. Kenyon asked if that mylar was ever signed and filed, and Rolf Ronning answered, yes, it can be found in the County Clerk's Office.

Motion by J. Gaddy to request the following information: 1) the applicant is required to submit a completed long environmental assessment form to the Planning Office; 2) Town Engineer Tom Nace's concerns noted in his May 10, 2005 letter are to be addressed; and 3) construction detail and procedures for the stream-crossings utilizing 2 culverts are to be submitted. Seconded by D. Roessler. **All in favor. Motion carried.**

11) SPR05-10 WESTWOOD FOREST EAST. Rolf Ronning. In accordance with Chapter 125.13C1 of the stormwater regulations, seeks Type II Site Plan Review for a major project, specifically to remove more than 15,000 square feet of vegetation. 3.71 acres is proposed. Section 139.00, Block 1, part of Lot 8. Zones RIL3, RR10, and LC25. Property Location: Intersection of County Route 11 and east side of Hendricks Road. No action was taken by the WCPB. Subject to SEQR. This application is in conjunction with SD04-32, and was tabled last month pending review and approval by Town Engineer Tom Nace.

This item was not heard as referenced above in the agenda item description.

Other business:

J. Gaddy asked the PB to look at the land disturbance by the Highway Department on the sides of Town of Bolton roads, including, but not limited to, Lamb Hill Road, Trout Lake Road, and Potter Hill Road. H. Koster says he agrees with what J. Gaddy is trying to do, but sometimes the method J. Gaddy is trying is doing the exact opposite of what he is trying to do and now he's made it worse. Several PB Members continued discussing this issue amongst themselves.

Meeting adjourned at 9:50 pm.

Respectfully submitted by
Jennifer Torebka
Recording Secretary
06/03/05