

**Town of Bolton
PLANNING BOARD
MINUTES
Thursday, January 19, 2006
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

H. Koster opened the regular meeting at 6:06 pm by asking for corrections to the Thursday, December 15, 2005 minutes.

1. S. Aldrich said she opposed the motion for Re-approval of SD05-11, George and Mary Baer, so the vote on the motion should read “**Motion by** Donald Roessler to extend the approval for SD05-11, originally approved by the Planning Board on July 21, 2005 for six months to expire on June 15, 2006. **Seconded by** Chauncey Mason. *John Gaddy, Herb Koster, Chauncey Mason, Donald Roessler and Susan Wilson were in favor. Sandi Aldrich was opposed. Henry Caldwell was not in attendance for this vote. **Motion Carried.**”*

2. J. Gaddy said on page 9, paragraph 2 should read, “...(2) correspondence from the LGA’s concerns about maintaining the filtering action of the wetlands to the east of the property toward *Trout Lake and Lake George.*”

Motion by John Gaddy to approve the December 15, 2005 minutes as amended. **Seconded by** Donald Roessler. **All in favor. Motion carried.**

REGULAR MEETING:

- 1) **SD05-33 GABRIELS, JANE.** Represented by Don Russell. Seeks to divide into 2 lots that parcel designated as Section 171.20, Block 1, Lot 2, Zone RCH5000. Property Location: 18 Green Isle Lane. Minor Subdivision. Sketch plan review. Subject to SEQR. *This item was tabled from the December Meeting pending a revised map.*

Jane Gabriels said the proposal is to divide one parcel into two lots.

H. Koster asked if the applicant received the variance for deficient setbacks on the existing buildings and Jane Gabriels said yes.

There were no other PB questions or discussion.

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

Motion by John Gaddy to accept the application as a completed sketch plan, convert the sketch plan to final plat, waive the public hearing and grant final approval as presented with the following condition 1) All lighting will 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 Henry Caldwell. **All in favor. Motion Carried.**

- 2) **SPR05-50 MILLER, MARC.** Represented by Dennis MacElroy of Environmental Design. Seeks Type II Site Plan Review for a major project, in accordance with Section 125.13C1 of the stormwater regulations. Specifically to remove more than 15,000 square ft. of vegetation. Approximately 28,240 square ft. is proposed. Section 185.00, Block 3, Lot 40, Zone RCL3. Property Location: Rainbow Drive off of Trout Lake Rd. and being lot 4 of the Trout Lake Shores subdivision. WCPB determined no county impact. Subject to SEQR. *This item was tabled from the December meeting pending additional information. WCPB determined no county impact.*

Dennis MacElroy, representing Marc Miller gave an overview and said (1) they have addressed the PB's concerns of the previously tabled motion and (2) Town Engineer Tom Nace signed-off on the stormwater management report.

J. Gaddy asked why Sheet 2 is not included with the plans and Dennis MacElroy said Sheet 2 is for the wastewater plan, which is not part of this application.

J. Gaddy asked if every tree marked in yellow on the map is being removed and Dennis MacElroy said he doesn't know. J. Gaddy said that (1) approximately 30 large pine trees are shown as coming down, (2) it is a really difficult slope trying to build at this location and (3) he is very concerned with stormwater run-off being contained on this property given the number of trees coming out versus the 10 proposed to go back in, especially given yesterday's storm. Dennis MacElroy replied by saying that (1) no design can accommodate a storm the Town had yesterday and (2) the proposed design accommodates the design year storms and what is required by the Ordinance.

H. Caldwell asked what the applicant considers yesterday's storm, as the Ordinance states the applicant has to accommodate for a 100-year storm in the plan. Dennis MacElroy said that yesterday's storm is not addressed as part of normal stormwater infiltration design and it is just the reality of winter conditions.

J. Gaddy said that (1) he thinks the PB is looking at spots that seem fairly level as having challenges dealing with this kind of storm and this lot is pretty far away from being level and (2) with this proposal, there would be no natural vegetation left. Dennis MacElroy

said (1) the lot will be different than it is today in its appearance as most developed lots are subject to that, (2) the removal of vegetation on that site would be in the areas where the house and driveway are and where certain grading takes place, (3) the plan as represented in his mind is an accurate representation of the worst case scenario where you take grading to 3 on 1 slopes, (4) a certain amount of that grading probably won't take place because it will be stable and left as it is in the areas down gradient from the driveway in particular, (5) the 3 on 1 grade is commonly accepted slopes when you are changing the shape of the ground and (6) the owner isn't out to change the site any more than it has to be for the work that is done.

J. Gaddy asked Counsel if it is accurate that in looking at a subdivision where lots have been cut up, that every lot is a buildable lot. Counsel replied by saying (1) academically speaking, there is a bit of a presumption that if this has undergone previous review, it has withstood that analysis already and that yes, those subdivided parcels are presumptively building lots, (2) he admits that it is possible that an old subdivision perhaps is founded on a bad plan, (3) it certainly is possible to have stormwater regulations that don't fit well on old subdivisions but they have to be applied, (4) when it then comes down to a tough choice, there is a possibility that if you cannot comply with the stormwater regulations then maybe a pre-approved pre-existing subdivided lot might not be buildable, but it is no longer academic—it is presently before the PB now and (5) part of what the PB has to understand too is that there is a tax payer aspect on this thing in that certainly it has been regularly presumptively assessed as a building parcel, so that comes into the PB's considerations—it is not that it constitutes a blank check, but it is just a consideration, so the PB has that and they have the prior subdivision approval, but the PB is certainly up against a mandate that the lot needs to comply with stormwater regulations.

H. Koster asked if the applicant has tried to accommodate the PB's questions from last month on disturbance line being right up against the property line on both the north and the south ends of the lot, in regards to the PB not liking to approve a plan with the disturbance line being right up against the property line. H. Caldwell said that the applicant is proposing to cut down trees on the property line that have roots on the neighbors' property. Dennis MacElroy replied by saying that (1) yes, potentially there might be trees in that area, (2) the issue he remembers is the effect on stormwater and the PB recommended it to the Town Engineer, who's report indicates it is complete and in accordance with the stormwater regulations and (3) the stormwater management project doesn't mean that no water would ever leave that property—there are control and management devices, such as the dry wells that infiltrate water from a design year form as specified by the regulations and (4) based on the project being reviewed, the Town Engineer and the Lake George Waterkeeper are both satisfied with the design.

J. Gaddy said that (1) if the Town Engineer and the Lake George Waterkeeper—who are more expert than him on these types of things—are satisfied with the stormwater management plan then he is okay with that, but his concern would still be the amount of proposed clearing between the lake and the house site as he feels there is a “bowling alley” effect with clearing on the east side of the lake and he doesn't want that to happen here, (2) he feels more information is needed on the trees to be removed, (3) with the

nature of the slope it appears as though the management of this water would be going towards the north and the common area road as it does now and his concern is for the applicant to assure the PB that the clearing limit won't go beyond 20' from the house line and (4) he recommends the applicant stake out the area 20' from the house line.

H. Caldwell asked what existing trees will be left and Dennis MacElroy said (1) he can't speak specifically to each and every tree that is on the site, but there will be a certain amount of clearing as shown on the plan, that would indicate the worst case scenario, (2) the owner indicated that they don't plan to clear any more than they have to, therefore the clearing limits as shown are a result of the grading. H. Caldwell asked if that is within the dashed line and Dennis MacElroy said yes, that is the area of disturbance. H. Caldwell said the applicant may want to check trailing arbutus because he thinks it is an endangered species of plant that is not allowed to be removed and Dennis MacElroy said he'd check with their landscape architect. H. Caldwell said removing 100' pine trees and replacing them with 5' pine trees doesn't seem like an equal thing.

H. Koster said (1) his concern is that he doesn't think this house was specifically designed for this lot as the proposed driveway swinging out will create the steepest slope possible, (2) if the applicant followed the contour lines in and faced the garage in a different direction the applicant wouldn't have all of this grade change that is shown, (3) the applicant has grade change almost all the way back to Rainbow Drive, which in essence will clear all of the north face of that lot equating to 60% total of the lot, and (4) he thinks there could be a different designed house that would kind of fit the lot as opposed to forcing this proposed house onto this lot. Dennis MacElroy replied by saying that the owner has given the house location and house design a lot of consideration.

Marc Miller, property owner and applicant, said (1) regarding the garage placement, his future plan is to make the house larger and put on an addition, which would only be able to go on the back of the house, so he won't be able to do that if the garage location is changed, (2) regarding the trees, he spray painted the trees himself and his intention is not to take anymore trees down than he absolutely has to and there is a parking lot by the lower side of his property, so he is going to do his best to plant and grow it up as much as possible on the lower side and (3) he has had past conversations with P. Kenyon regarding tree and shrub removal—he is more than willing to have P. Kenyon walk the property before any big trees are taken down. H. Caldwell said the applicant is looking at taking down 60% of the existing trees and Marc Miller replied by saying that he is only taking down what is needed to get the road in and if he can build some tree wells to save some of the trees he will—he doesn't foresee all shown as coming down.

J. Gaddy asked what sort of lawn maintenance, fertilization, etc. would be done on the proposed maintained lawn area on the lakeside and Marc Miller said he won't be having Chem Lawn coming in to spray his lawn and he'd be willing to put wood chips down if that's what the PB would like.

J. Gaddy said he thinks the PB is looking to minimize disturbance by changing the driveway and Marc Miller said he doesn't know how else to accomplish what he is trying

to accomplish because the well and septic locations need to be where they are shown and if the driveway is moved there would be a whole other set of issues to deal with.

P. Kenyon said that shoreline-cutting restrictions exist and Marc Miller said he will comply with that and with whatever is required whole-heartedly, as he wants to retire here someday.

Correspondence: Counsel read the following correspondence into the record.

- Letter from Chris Navitsky, Lake George Waterkeeper dated 01/19/06 – concerns.
- Letter from Kathy Bozony, Lake George Association dated 01/18/06 – concerns.

C. Mason said he feels the disturbance by the north side of the driveway could be handled by having a retaining wall right up against the driveway so the applicant would not have to go back in to do all the proposed grading—so what is there would stay there, which would cut down on the amount of disturbance. Dennis MacElroy said (1) yes, that is another alternative, (2) the retaining walls shown would be as they are, because they are needed to transition the existing grade to the grade of the basement entry of the home and (3) further upgrading of the driveway as you approach represents a 3 on 1 slope which is proper grading for a disturbed area and (4) as the work is done and the grading is transitioned to the natural grade, he would suspect there will be areas left as they currently exist that is steeper than 3 on 1 that is stable now and will be stable in the future, therefore the grading and disturbance in that area would be less.

P. Kenyon said as a reminder that retaining walls over 100 square feet and/or over 2' high are considered structures. J. Gaddy asked if the current retaining walls shown on the plan are structures and P. Kenyon said no those shown do not fall within the category of a structure.

H. Caldwell said (1) the applicant is showing the worse case scenario in the disturbance area and (2) he would like to see a map showing which trees are going to be removed and which are going to stay, which is something the PB has requested of other applicants in the past. H. Koster (1) said the PB had made the same request of a proposed single-family residence on a 55-acre lot and (2) asked if the applicant would be willing to reduce the disturbance area to an absolute minimum. Dennis MacElroy said yes and asked if that could be drawn in tonight and approved so they could move forward.

H. Caldwell asked if the applicant addressed all of Town Engineer Tom Nace's concerns and P. Kenyon replied by saying yes, the applicant has addressed all of Tom Nace's concerns and Tom Nace signed-off on the project.

Marc Miller asked if it would be helpful to move the project along if he agreed to leave trees downhill of the driveway and put tree wells in.

J. Gaddy said (1) he can understand the concerns the applicant has with making the payment deadlines for his project, but that is not a PB concern, (2) the PB would be very reluctant to approve the kind of suggestions the applicant is making without seeing them on paper, (3) he thinks the PB needs to see a better representation of a proposed driveway that would not lead to as much disturbance, (4) based upon Counsel's response he would be very reluctant to deny the ability to build on this lot, however the way that this is configured is not what he sees as a minimally invasive project.

Marc Miller said that (1) he has gone to extraordinary lengths to satisfy the Town Engineer and the Lake George Waterkeeper and all of the professionals are saying this proposal is acceptable, (2) he is telling the PB he is going to do his best to limit the removal of the trees, (3) while it is not the PB's problem, he has spent a great deal of money to get this far, (4) all he has to work with are the Town's rules and regulations which he thinks he has followed according to the Town's Engineer and the Lake George Waterkeeper—he (the applicant) has done everything he is supposed to do and then the PB is telling him to do something different now, (5) he is prepared to let P. Kenyon advise as to which trees can or cannot come down and (6) he is at a loss now, as he has done everything he was supposed to do by the code and the PB is saying it is not good enough and while he respects the PB's opinion, but his intention is not to have a situation like the clearing across the lake—the PB has his word on that.

P. Kenyon said that she is not comfortable making the decision for the PB as to what trees come down and what stay.

J. Gaddy asked about the 20' clearing on the right and Marc Miller replied by saying the house is within 20' of the 100' setback and he is not planning on touching anything within 100' of the lake other than the few trees that go down to where the proposed well site is. H. Koster said there is a 20' envelope around the house that the PB allows clearing to and the applicant is way beyond that limit on the north side, which is the PB's concern. Marc Miller said he understands the PB's concern, but he does have two engineers and the Lake George Waterkeeper saying that what he has done mitigates that.

H. Koster said (1) the engineers and the waterkeeper are concerned with basic stormwater management for that lot and (2) the PB has additional concerns here as a board—the applicant is proposing to clear 60% of the lot which concerns all PB members. Marc Miller replied by saying he will try to clear as little as possible and they won't disturb any area they don't have to. H. Koster said (1) the big word is "if" and (2) the applicant is looking for the PB to approve a plan that has disturbance lines plotted all over it to be able to disturb 60% of that lot, which is what concerns the PB.

Marc Miller said they could put a retaining wall on the downhill side of the driveway to reduce the area of disturbance as the PB requested and asked what makes a retaining wall a structure. P. Kenyon said a retaining wall is a structure if it is over 100 square feet on the face or over 2' in height. Dennis MacElroy said that is only a problem if it falls within a setback and Counsel said that is correct. Dennis MacElroy said that doesn't become an issue here.

H. Koster said that the applicant is moving the contour lines approximately 1 foot on the south. H. Koster also asked if the applicant could move the disturbance line away from the property line and Dennis MacElroy said yes and clarified that the two areas—north of the driveway mitigated by the use of a retaining wall and adjusting the grading on the south side in the area of the house between the house and the Lyon’s property line so that the disturbance is further away from the property line.

D. Roessler said that he would like to see more trees added. H. Koster said there would be a lot less taken down and H. Caldwell said the disturbance area would be dramatically reduced if the aforementioned items are done. H. Koster said while he can’t speak for other people, he believes there is a consensus that these requests would satisfy the PB.

P. Kenyon asked what area the PB would like the retaining wall in and H. Koster said put a retaining wall along the north side of the driveway to eliminate all the contour change lines. P. Kenyon asked if it the PB is requesting the retaining wall along the whole driveway on the north side and H. Koster said it would have to start within 50’ of the road. P. Kenyon asked if there are any issues with any side-yard setbacks there and H. Koster said no.

D. Roessler (1) asked if a guardrail or fence is required on the driveway for safety reasons, (2) said that even though it is a private driveway, the safety of the homeowner needs to be addressed and (3) asked if the driveway is steep. H. Koster said (1) it is not a shared driveway, so safety is the homeowner’s concern and (2) the steepest part of the driveway is a 10% grade, which is for a very short distance and the upper part of the driveway is about a 3.5% grade.

Dennis MacElroy asked for clarification on the requirement of the stormwater management agreement. Counsel said that (1) in the Code itself, there is an exhibit and it is something that is recorded in the county clerk’s office, (2) he’d be the first to admit that the thing that is in the Code is a poor example, but P. Kenyon does have an excellent example of one, (3) they are easily done and it is sort of a finishing touch to the process of getting the stormwater management plan approved—it is not something the PB reviews and (4) because it becomes public record, it is attached to the land so all future owners know about it. Dennis MacElroy said he understood.

H. Koster said that the PB is putting limits to maintain existing trees and if the trees aren’t maintained there, the applicant will be in front of the Town Board then and Marc Miller said that when the retaining wall goes in, they won’t touch anything down there other than what is required for the retaining wall—so everything will stay. H. Koster said that the PB also understands that there is some area that needs to be disturbed for the construction of the retaining wall, but wants to make it clear that it is not taken advantage of and Marc Miller agreed.

Motion by Henry Caldwell to table the application pending the following information; 1) Retaining walls are to be incorporated along the north side of the driveway starting 50 ft.

back from the road to reduce the clearing to be done. 2) The proposed cleared area on the south side of the driveway located near the proposed single-family dwelling is to be adjusted to reduce the amount of clearing to be done. **Seconded by Donald Roessler. All in favor. Motion Carried.**

- 3) **SPR05-53 HALL, MELANIE.** Seeks Type II Site Plan Review for the placement of a mobile home in the RR5/RR10 Zone. Section 123.00, Block 2, Lot 37. Zones RR5/RR10. Property location: West of 145 Alderbrook Rd. Subject to SEQR.
Note: After the fact: See notice of violation dated Oct. 21, 2005.

Melanie Hall said she has a mobile home on the property and is looking for PB permission to enable her keep it there.

H. Koster asked if the applicant is working with P. Kenyon on the septic system and Melanie Hall said yes.

H. Koster asked if this application is for permanent approval and Counsel said yes.

D. Roessler asked about well location and P. Kenyon said that she is working with the applicant now and everything will be in compliance.

There was no further PB discussion or questions.

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

Motion by Donald Roessler to accept the application as complete, waive a public hearing and grant approval as presented with the following condition; 1) The septic system is brought into compliance. This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. Seconded by Sue Wilson. All in favor. Motion Carried.

- 4) **SPR05-54 THE MICHAELS GROUP.** Represented by Matt Steves of VanDusen and Steves Land Surveyors. As part of subdivision (SD03-23) and stormwater (SPR04-03) approval granted for the Bluebird cottages subdivision (Phillip & Cynthia Farbaniec) on March 18, 2004. Seek Type II Site Plan Review for a major stormwater project on Lot 2. Section 186.14, Block 1, Lot 89. Zone RCH5000. Property Location: Bluebird Way. SUBJECT TO WCPB REVIEW. Subject to SEQR.

Matt Steves, representing The Michaels Group, gave an overview and said (1) this application is for Lot 2 of the Bluebird Cottages subdivision, (2) the total impervious area calculated is about 2,374' equating to about 3561 gallons of stormwater and (3) they have incorporated stone trenches with this lot as they have with all other lots in the subdivision.

H. Koster asked if the driveway for Lot 2 is a shared driveway and Matt Steves said no, the driveway for Lot 2 comes in off the main loop road, whereas the Lot 1 driveway goes around onto Lot 1 and is not shared. H. Koster asked if the property line goes to the driveway for Lot 2 and Matt Steves said yes.

Matt Steves said he was just given a copy of correspondence from Chris Navitsky, Lake George Waterkeeper, regarding the grass swale that was placed on the Lot 1 driveway and they agree to install stormwater measures to protect the existing swale that is there.

Correspondence: The following correspondence was received, but it was not read into the record.

- Letter from Chris Navitsky, Lake George Waterkeeper dated 01/19/06 – concerns.

S. Aldrich asked if any other changes had been made to stormwater than what was originally presented other than the item from the Lake George Waterkeeper, which was just addressed, regarding the swale on Lot 1 and Matt Steves said no.

Matt Steves said that (1) all of the lots previously approved by the PB that are either constructed or under construction have stormwater in place and are all working quite well and (2) he doesn't think P. Kenyon has had any complaints or issues with stormwater in the Bluebird Cottages subdivision. P. Kenyon said they had some concerns with stormwater, but they have already been addressed.

P. Kenyon said that the huge concern with the streetlights at the Bluebird Cottages subdivision has also been addressed as the streetlights have been removed. Matt Steves said (1) he was prepared to talk about that if it came up, but he is here for stormwater and (2) the lights have been removed, they are looking to replace it with a frosted globe, a bulb of much less wattage and a covering for the top of the globe to reduce the lighting. J. Gaddy (1) said the original lighting plan submitted was the most extensive lighting plan the PB had ever seen and (2) asked if the Bluebird Cottages subdivision is still looking at working with the original lighting supplier on their plan or if they are looking for other options. Matt Steves said they are looking at any company that could provide them with the best solution and J. Gaddy said he would provide him with a list of lighting companies.

J. Gaddy asked if the covered porch on Lot 2 encroaches on the setback and Matt Steves said no, the eave-line on the east porch doesn't extend beyond the setback. J. Gaddy asked what the proposed lighting is for this porch and Matt Steves said it would just be a small, shielded down light on the porch.

No County impact.

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

J. Gaddy said (1) there is a consensus to approve this major stormwater project and (2) based upon the materials submitted and accepted as part of the record, the findings are as follows;

1. The project meets the design requirements and performance standards set forth in the code.
2. The project will not have an undue adverse impact regarding the criteria set forth in the code.
3. That the stormwater control measures proposed will function as designed and constitute the best possible methods feasible and practicable for the project site.
4. Adequate and sufficient provisions are presented as part of the plan to assure future function or responsibility in the event of failure.
5. The project will not contribute to flooding, siltation, or stream bank erosion and will not pollute Lake George, its tributaries or streams with run-off.

J. Gaddy added that Matt Steves has stated that the grass swale protection will be maintained for the stormwater project.

Motion by J. Gaddy to accept the application as complete, waive a public hearing and grant final approval for the house with the condition that the lighting be downward facing and shielded and grant final approval for the stormwater as presented with the condition that construction times are from 8:00 a.m. to dusk Monday - Saturday and 9:00 a.m. to dusk on Sundays from July 4th to Labor Day. 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.**

- 5) **SD05-29 DOLLAR, MICHAEL & KRANTZ, HEATHER.** Seeks to divide into 2 lots that parcel designated as Section 140.00, Block 1, Lot 13, Zones LC25 and RL3. Property location: Intersection of New Vermont, Sawmill & Federal Hill Roads. Sketch Plan Review. Minor subdivision. Subject to SEQR.

This item was tabled.

- 6) **SD05-35 LAVENDER, JOHN.** Seeks to amend a previously approved plat (Highlands) specifically to create multi-lot line adjustments between those parcels designated as Section 171.10, Block 1, Lots 6 & 7(owned by Lavender) & Section 171.00, Block 1, Lot 16.1 & Section 171.10, Block 1, Lot 7 (owned by Lavender and Haigh trust). Zones LC25, RR5 & RL3. Property Location: 18 Skyline Drive and 507 Potter Hill Rd. Sketch Plan Review. Subject to SEQR.

John Lavender gave an overview and said that (1) he is looking for lot line adjustments and (2) this request was approved in part years ago, but he never filed it, so he is back asking for approval.

There were no PB questions or discussion.

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

Motion by Donald Roessler to accept the application as a completed sketch plan, convert the sketch plan to final plat, waive the public hearing and grant final approval as presented on map dated 1/9/01 and revised 12/7/05. This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. **Seconded by** John Gaddy. Henry Caldwell recused himself. **All others in favor. Motion Carried.**

Motion by Donald Roessler to amend his motion to include the conditions imposed on those parcels designated as 171.10-1-6 & 7 owned by Lavender, when originally approving the lot line adjustments on 3/28/91 under SD91-03; 1) lots cannot be further subdivided. 2) The larger lot is not privileged to any additional subdivision rights. 3) All setback and zoning requirements shall be met on the smaller lot so a variance will not be necessary. 4) All conditions shall be placed on the mylar. **Seconded by** John Gaddy. Henry Caldwell recused himself. **All others in favor. Motion Carried.**

7) **GARDNER, EDWARD.** To discuss the possibility of rescinding a condition of approval set forth by the Planning Board on 7/31/86, when approving a 3 lot subdivision (SD86-08 Hendricks, Robert), and amended on 2/22/90 (SD90-01 Hendricks). Specifically the condition reads as follows: “The property will never be resubdivided” and “the lots are never to be subdivided.” Section 123.00, Block 2, Lots 2, 4, 5, 11, 12 & 13. Zones RR10 & LC25.

Edward Gardner Jr., representing his parents Edward and Linda Gardner, said they are here to ask the PB to consider rescinding the restriction of no further subdivisions.

J. Gaddy said (1) in going through the minutes of all the previous boards and agencies involved, it seems as though it is a pretty strong sense that they didn't want to have any further subdivision and (2) when you start to take a look at the past judgment of past boards, they must have had a pretty strong reasons to write all this.

Edward Gardner Jr. said (1) all they know is the parcel is 100 acres and it has two houses on it right now, (2) originally they knew it was RR10 but didn't know it was part of a bigger piece of property, so they didn't think it would be a problem to add a lot, (3) after speaking with P. Kenyon, they did a survey to get the exact density which shows that 51 acres are in LC25 and 49 acres are in RR10 and (4) in speaking with P. Kenyon, she felt they could further subdivide or there could be reason to.

P. Kenyon said (1) she believes the applicant has the density to further subdivide, (2) she doesn't know why those conditions were placed on there, but she did review everything that took place in those two subdivisions, (3) Dr. Hendricks created ultimately five lots in that RR10 zone originally and he used 60 acres of it at that time and (4) she doesn't know why that condition is there—she doesn't know if it was because of wetlands or the pond that is on there or if it meant the lots they did create could not be further subdivided, as

the minutes are very vague—she can only say the applicant does have density to create additional parcels.

H. Koster asked if there is any kind of legal precedent with this and Counsel said that the PB is being asked to re-consider what was a mandate of a board way back in 1986—the PB can change it, but the question starts with if this PB wishes to and for what reason.

P. Kenyon read the motion from the 1990 meeting minutes into the record and said the 1990 motion does not mention “no further subdivision”, but it was in the approval letter that was sent out that said “the lots are never to be further subdivided”. Counsel read the 1986 motion into the record that does mention “...it never be subdivided again...it must be on the mylar and the deed...”

H. Koster asked if the 1990 subdivision supercedes the 1986 subdivision and Counsel said that he thinks the better construction would be that whatever happened in 1990 doesn't supercede the 1986 decision, but they are read together and he bases that on the fact that in the 1990 minutes they are referring to that “...Mr. Donohue moved to approve the application based on the same information presented in 1986—nothing has changed since that time...”, so they are comprehensively relying on the same fact pattern to come up with a decision and the decision says something about future activity regarding density used.

H. Koster said that these properties are all taxed on the same basis as far as what zoning they are in, so if you are paying taxes on 100 acres it is taken for granted that you could break that up into four lots. Counsel said (1) he agrees, but it also would be incumbent upon the tax payer, if they had such a covenant and restriction—which this one does—to say to the assessor that this is not subdividable and therefore the applicants assessment should be lower, (2) it is a valid argument that could be made both ways and (3) the PB does have the jurisdiction to re-visit this whole thing and decide if it is an appropriate case.

H. Koster asked if it is correct that the 1986 minutes have no real reason for no further subdivision and Counsel replied by saying, nothing other than Mrs. Gabriels said it and they fell in line and did it.

J. Gaddy asked if there are any deed restrictions and Edward Gardner Jr. said he went back about seven or eight sales and didn't find anything on the deeds about no further subdivision—it was only on the subdivision maps filed with the County.

Counsel said he asked P. Kenyon if every lot shown on the subdivision going back from 1986 and including 1990 is spoken for this evening by the applicant and P. Kenyon told him no, there are other owners. Edward Gardner Jr. said he thinks 1986 was when Dr. Hendricks gave it to his son Tim and then Dr. Hendricks took three more acres himself. Counsel said (1) the PB does not enforce covenants, (2) he will give the applicant the benefit of the doubt that there are no covenants that restrict further subdivision, but the filing of that map does and there are other interested parties who have the right—the

benefit of that assurance—that no further subdivision will occur, (3) before this PB should take some say on the issue, the applicant has to line up those consents to make sure those people are in agreement as well, because any one of them will prevent the applicant from achieving the PB’s opportunity to hear it and (4) the neighbors are welcome to come before the PB with their consent, but from a disciplined approach in terms of record keeping, their consent to whatever relief the applicant needs should be signed and notarized (in recordable form), then this PB has jurisdiction to re-visit the issue.

Motion by John Gaddy to table this request until such time as the applicant presents written, signed and notarized consents of other land owners within the “subdivided” lots. SD86-08 & SD90-01. **Seconded by** Donald Roessler. **All in favor. Motion Carried.**

8) RAY CICCARELLI. To discuss the possibility of rescinding a condition of approval set forth by the Planning Board on 4/25/02, when approving a 2 lot subdivision (SD01-14 Ciccarelli). Specifically the condition reads as follows: “There will be no blasting.” Section 186.06, Block 1, Lot 11.1. Zone RM1.3. Property Location: Belle Lodi Lane.

Jeffrey Tennant, representing Ray Ciccarelli, gave an overview and said (1) they are asking the PB to rescind the blasting condition put on the lot on 04/25/02 and (2) based on the minutes of that meeting, there was considerable pressure put on by a neighbor for no blasting and that neighbor, in turn, has blasted on his own property.

J. Gaddy asked for clarification on the neighbor’s blasting time frame. Jeffrey Tennant said (1) shortly after the aforementioned motion, the neighbor had requested and hired Steve Britton to come and do blasting in his garage, but Steve Britton ended up finding a way to do the project without blasting because they couldn’t get the mats in there and (2) so in one sense, he is saying to his neighbor—I don’t want you to blast if this is approved—then he is turning around and doing blasting on his own property and (3) the parking lot by the neighbor’s property was blasted and there was no damage to his house, (4) he doesn’t feel the no blasting condition is warranted because yes, it can be done without damage to anything around you and there is insurance and equipment to ensure that and (5) there is no plan to build at this time, but having the no blasting condition rescinded is the first step for any possible future plans.

J. Gaddy asked if the PB is bound or obligated to stay with an original decision of approvals made based on a Public Hearing when approached with a case like this and if it could be modified without a Public Hearing. Counsel said (1) it cannot be modified without a Public Hearing, (2) those parties that would have been entitled to notice where the PB made the original decision, perhaps favorable to their position, are certainly entitled to further notice, further Public Comment, (3) the PB could confirm a previous decision without another Public Hearing, but it cannot undo a previous decision without having another Public Hearing.

H. Caldwell said he would like to hear from Steve Britton. J. Gaddy said the Town is going to get into more and more marginal properties on the way and asked what the PB would be looking for regarding limitations. Steve Britton said (1) as a town board, what he would be most concerned with is general liability insurances—they are insured for \$6 million whereas many companies are insured for \$4 million, (2) the town boards should get it into some sort of permitting process so the boards are familiar with the type of people, company, and equipment that would be doing the blasting, (3) they have a seismograph machine, set up next to the homes of people with concerns, that monitors ground movement and air blast to insure no structural or air blast damage is being caused, (4) they are maintained by Federal Laws to maintain a certain peak particle velocity which is 2” per second—as a company they like to maintain 1” per second or less, (5) he looked over this site and doesn’t see any issues with the proper equipment and technique, in fact, where the proposed house may be going is much further away from the previous blasting job they did for Mr. Ciccarelli, so he feels it could be done without any real issues, and (6) it is justifiable that neighbors would be concerned with blasting, which is why it is his practice to speak with the neighbors, offer to let them be there to see what is being done, etc.

H. Koster asked how many cubic yards of rock they would be looking at taking out there and Steve Britton said (1) he doesn’t really know, but it probably goes from a cut of nothing to a cut of 4-5’, but he doesn’t know about the square footage of the house—he’d be happy to provide that information if it got to that point and (2) he would be willing to bring up references from other local jobs they have done to show the effects of blasting for the PB to review.

Jeffrey Tennant said (1) if there is a particular person or neighbor that has a definite interest or would possibly be adversely affected, could be listed as an additional insured on a certificate of insurance, (2) it is a lot that was created and it is definitely in the character of the neighborhood regarding size and density and (3) he hasn’t even thought in the direction of the type of house that would go there, because it is a waste of time if the no blasting condition remains on this lot—this is just the first step in a long process.

H. Koster said in the original motion it talks about “fracturing” as opposed to “blasting”. Jeffrey Tennant said that Steve Britton has an excavator with a hydraulic ram on it, but the type of removal depends on the type of rock. Steve Britton said that depending on the depth of the cut and the type of the rock—most of which is granite in this area—taking out any more than 2-3’ with that piece of equipment is pretty hopeless.

Jeffrey Tennant said that Ray Ciccarelli made a statement to him that this would very possibly be a house for himself—something smaller and everything on one level, but that is all that has been discussed at this point.

H. Caldwell asked if a plot plan could be provided next month that shows a brief idea of how much would have to be taken out and Jeffrey Tennant said yes, he will come up with some simple design that shows area and plot plan for the Public Hearing and he will bring Steve Britton back. H. Koster said the map would need to be submitted two weeks prior

to the Public Hearing or the Public Hearing would be postponed to the following month. P. Kenyon said it would be needed by February 2, 2006 to have the Public Hearing on the February 2006 PB Agenda.

Motion by Henry Caldwell to schedule a public hearing for February 16, 2006 at 6:00 pm, to discuss the condition imposed by the Planning Board on 4/25/02, whereby no blasting will be done. **Seconded by Sandi Aldrich. All in favor. Motion Carried.**

9) SD04-08 BRANDOW, EDWARD. Trout Lake West. Represented by Rolf Ronning. Seeks to amend a previously approved plat (SD04-17), specifically to divide into 5 lots those parcels designated as Section 185.00, Block 3, Lots 25, 26, 27, 28, 29 & 30. Zone RCL3. Property Location: Trout Lake Road. Sketch Plan Review. Major Subdivision. Subject to SEQR. *This item was tabled at the September 16, 2004 meeting pending additional information. Note: This is a modification to a previously approved plat known as Trout Lake Shores II that was rescinded by the APA.*

Rolf Ronning, representing Edward Brandow, gave an overview and said they are proposing a four-lot subdivision on Trout Lake and asked for clarification on if this is a major or minor subdivision based upon the new determination that a Town road separating land creates two lots as he originally paid \$75 for a minor subdivision and would now be required to pay \$750 for a major subdivision.

H. Koster said being that the applicant benefited both times from the law being changed under two different counsel recommendations, the applicant could surely pay a few extra bucks to the Town. Rolf Ronning said it is a matter of what is right.

P. Kenyon said (1) the APA requested also that the lot on the west side be part of this subdivision and that this be treated as a major subdivision and (2) she believes it is a major subdivision, so she will expect a check tomorrow. Counsel said he agrees—a road doesn't count. H. Caldwell said a major subdivision needs a Public Hearing too.

Correspondence: Counsel said the following correspondence was received, but it was not read into the record.

- Letter from John F. Caffry of Caffry & Flower, representing Chet & Elizabeth Burrell dated 01/19/06 – concerns.

H. Koster asked why Lot 1 is not included in this proposal and Rolf Ronning said the APA wanted that listed as Lot 1, but it is not a lot—it is a lot line adjustment, which is the piece that was given to Julie Denison to make her land grow—it is not a separate lot, but that is what the APA wanted. P. Kenyon said (1) the PB did approve that lot line adjustment several months ago and (2) she doesn't agree with how it is shown on the map as being Lot 1. Rolf Ronning gave a history as to how the Denison lot and the lot line

adjustment came about. There was further discussion on the labeling of what is now shown as Lot 1.

H. Caldwell asked for the applicant to point out the easement location on the lot and Rolf Ronning did so. Rolf Ronning said they have completed the stormwater and are ready to submit it to Town Engineer Tom Nace if the project is acceptable. H. Koster asked how wide the easement is and where it comes off of Trout Lake Road. Rolf Ronning said it is 50' wide and everything comes off of one driveway for the four lots and the easement. H. Caldwell asked if there should be some metes and bounds on the easement and H. Koster said yes, because right now there are no lines determining where it is. C. Mason said the clearing for the right-of way should also be shown. H. Koster said too much clearing is being shown around the houses, so the clearing allowances need to be shown within what the Ordinance says.

J. Gaddy said the APA's 06/08/05 letter has the agreement that says the revised map will not depict any tree cutting lines and will take any cutting on the 1.02 acres requires approval from the PB and the agency. H. Koster said based on the APA's letter, the applicant should eliminate the clearing lines around the houses and for the roads.

J. Gaddy asked about the proposed road width and Rolf Ronning said he would like to have the road be 16' wide, but the Ordinance says it needs to be 18' wide. P. Kenyon said there is an 18' road width limit in the Ordinance.

J. Gaddy said that on Map 1B for the proposed wells shown, he would like to see the wells moved to the back side of the house away from the shoreline, which would be an advantage to the lake. Rolf Ronning said they can move the wells, but he wants to leave the septic systems in their proposed locations. Rolf Ronning asked if they can move the wells to the side of the house rather than the back and J. Gaddy said he would like to minimize any clearing leading to the lake and if the wells are put on the side of the house there will still be the kind of "bowling alley" effect. Rolf Ronning said his reason for the wells being on the side of the house is because the driveways will be on the back of the house and getting to the line would be much more difficult. J. Gaddy said (1) he would like to minimize the effect of clearing for the installation of the wells and (2) according to the 1 of 6 drawings, it looks like the proposed driveways would not interfere with the drilling of the wells behind the houses. H. Koster said the proposed pump stations are behind the house and there is a minimum distance from the enclosed structure to a well also. P. Kenyon said the minimum distance required from the enclosed structure to a well is 50'.

H. Koster said the maps also show retention ponds that have overflow pipes leading directly into the lake. Rolf Ronning said the houses are uphill on the lake, the stormwater has to be downhill, so it has to be somewhere between the house and the lake—these locations seem logical—all of the stormwater eventually goes to the lake. J. Gaddy asked if there is an alternative style of infiltration besides a retention pond and Rolf Ronning said what will happen is that they will be an indentation in the grass that will fill up with a major rainstorm, then sink down. H. Koster said it is an excuse for clearing. Rolf

Ronning said the PB is requiring this stuff and H. Koster said he is not requiring that the overflow goes directly into the lake—it is supposed to be recharged first before it enters the lake. Rolf Ronning said that is correct, but there has to be an overflow basin and there has to be an overflow for a 100-year storm. H. Koster said the houses may have to be moved back so the overflow doesn't flow directly into the lake. Rolf Ronning said they could move the catch basins 50' away from the lake and closer to the houses. H. Koster asked if the applicant could recharge the stormwater with drywells, french drains, etc. rather than having open basins and Rolf Ronning said he would see what he could do—he will address that.

S. Aldrich asked if this is the same plot they have been looking at since 2004 and Rolf Ronning said yes. S. Aldrich said back in April 2004 J. Gaddy requested that Lot 5 be removed, which she believes was because of the wetlands. H. Koster said that the lot numbers on 8 of 6 are wrong and the wetlands are not shown. There was discussion about inconsistent labeling of the lot numbers on different maps and of the incorrect map numbers on the maps presented. Rolf Ronning asked what the Denison property currently labeled Lot 1 should be re-labeled as and Counsel said it should say "Boundary Line Adjustment Attached with Lot 16 of Trout Lake Shores". H. Koster said the page and deed should be listed there to in order to cover everything.

J. Gaddy said he is confused on the motion made by D. Roessler and that he seconded referencing Lot 5 of the original plan. P. Kenyon said that was a result of when the interpretation was made that when a road bisects a parcel it is not part of that subdivision, which has since then been re-interpreted, which is why Lot 5 is now shown. Lengthy discussion ensued as to which lot is actually Lot 5 and the actual number of lots. H. Koster said the PB goes through this every time with Dennis Dickinson maps—all different maps, all labeled differently. The topic of the number of lots was revisited and Counsel gave an example to try to explain that according to the APA, a road going through a parcel is meaningless. D. Roessler said (1) he would like to see one set of plans and (2) he would like to see the 04/22/04 meeting minutes for clarification.

Counsel read all discussion from the 09/16/04 PB meeting minutes regarding SD04-08, Brandow, Edward, Trout Lake West, represented by Rolf Ronning into the record.

Rolf Ronning said (1) back then when he listed those tax map numbers, that was the previous subdivision of the six or seven lots on the lakeshore and (2) pointed to the map saying that these lots were separately taxed for close to 20 years, but it was an invalid subdivision. Counsel asked if those lots are joined today and Rolf Ronning said no, they are still taxed separately. Counsel asked if the applicant is requesting the lots be joined by the assessor and Rolf Ronning said he did what the APA wanted by putting them all into one title and there is one deed to Dr. Brandow.

H. Koster said (1) he went down this route with a piece of property he owns, (2) his piece of property is approved for a certain amount of lots by the Town of Bolton—once that happens it gets down to the County—even though the APA has not approved it, still in the eyes of Bolton, it is approved, (3) we approved that if the applicant still has the same

property line that he had back however many years ago, then in the eyes of the County of Warren, this is an approved subdivision. Counsel said he agrees and added that (1) the applicant is getting beat up on taxes because for assessment purposes the lots are being considered building lots, which in fact they are not, (2) the assessments themselves are compounded assessable value by the nature of the shoreline and (3) the applicant should be aware of the fact that the assessor looks at the shoreline and he values it as premium shoreline for a certain distance per lot, then subordinate shoreline—for example if you had one lot, all of those extra added shorelines would leapfrog onto the first basic increment of shoreline the assessment overall would be lower.

H. Koster asked if the metes and bounds shown on the four lots are exactly the same as what the PB previously approved and Rolf Ronning said no, the PB approved seven lots—this is a reduction. H. Koster asked if the PB is merging these lots now and Rolf Ronning said they are all owned by one entity and seen as one in the eyes of the APA. H. Koster said (1) that makes no difference and (2) before the PB can subdivide this it needs to merge the old map. Counsel said (1) he doesn't find issue with that—it is one process and procedure by which the PB can accomplish that and (2) it is also entirely possible that a person, such as Rolf Ronning, could go to Dave Rosebrook and say that was an illegal subdivision—it is cancelled, it is done, (3) Dave Rosebrook may call him (Counsel) and ask if that is true and if he (Dave Rosebrook) has to undo it and he (Counsel) would say absolutely and (4) you can take either path, but they should all be comprehensively combined.

S. Wilson asked if this is the subdivision the APA ruled was done illegally and Counsel said yes. P. Kenyon said that she considered this to be null and void for years, which is why she didn't put it down as to merge the lots. S. Wilson asked if P. Kenyon feels this is still one lot and P. Kenyon said yes, except for the Denison lot line adjustment.

H. Koster said he is not sure the PB can merge the lots tonight because it is not on the agenda. Counsel said (1) put merging the lots on next month's PB Agenda, so it beats the tax status date of March 1, 2006 and (2) the PB wants this to comprehensively be one piece of property. P. Kenyon asked if the applicant has to submit another application showing the six or seven lots, then the PB is going to merge the lots on a subdivision that doesn't exist. H. Koster said the County has it listed as six lots, which the PB approved as a board. Counsel said that is true and the County has every reason to continue that unless someone from Bolton tells them otherwise, so it can start with Dave Rosebrook. H. Koster said (1) the last thing the PB did on this was to approve that six-lot subdivision and (2) even though the APA says it is illegal, this Town never said it was illegal.

Counsel said (1) he will call Dave Rosebrook and make it into one lot—he doesn't feel he will get any resistance on it—he feels he will be successful and (2) Bolton can't maintain it as separate tax parcels.

H. Koster said the PB still needs a lot of information on this. S. Aldrich asked if they are still looking for all of the information asked for previously as well and P. Kenyon

responded by saying actually, she believes that most of the information previously requested was submitted to the PB.

Counsel said (1) assuming he is satisfactorily received by Dave Rosebrook's office tomorrow and they agree they will turn it into one piece, the applicant will be asking for five lots and the PB is saying it is too much and (2) the applicant has to decide if he is asking for five or four lots. Rolf Ronning said he is looking for four lakeshore lots and the lot across the road. Counsel asked if there is opposition on the PB with respect to that plan and H. Koster said to allow Lot 5 there needs to be more separation from the house and he has to be able to get his stormwater there. Counsel said the applicant's challenge is that if he wants five lots then he has to re-configure the plan.

Counsel (1) asked if when the APA rescinded all of this and brought it back to square one, are they working with a clean slate or did the APA have some expectations on limits, (2) said it seemed to him in the minutes that were read that Ellen George's report was no more than four—he will accept that as a possibility that she too meant four on the lake and (3) when Ellen George says four, she means five (four on the lake and one across the street). H. Koster said if the APA's determination is that a road bisecting a parcel does not create separate lots, then Ellen George's report would regarding the four lots would mean three on the lake and one across the street.

Counsel asked if the lot on the other side of the road is a separate tax parcel today and Rolf Ronning said yes it is. Counsel asked if it has always been so—even before the illegal subdivision and Rolf Ronning said yes it has always been a separate tax parcel. Counsel asked if there hadn't been this screw up along the way if the applicant would be presenting two separate tax parcels that he comprehensively wants to put into a five-lot subdivision. Rolf Ronning said the old subdivision way back that was illegal only dealt with the shorefront and not with the parcel across the road.

P. Kenyon said in the 04/22/04 PB minutes, Rolf Ronning said that he gets seven tax bills. Counsel said (1) that would seem to be consistent with six lots on the lake and one on the other side of the road and (2) had there never been a subdivision here, then there would have been only two tax bills. Rolf Ronning asked if that supports his argument that this is a minor subdivision and Counsel said perhaps, but the applicant wasn't explaining it like that.

P. Kenyon said the 04/22/04 minutes read "...Motion by J. Gaddy to re-aggregate the lakeside lots known as section 185-3-25, 185-3-26, 185-3-27, 185-3-28, 185-3-29, 185-3-30 and 185-3-31 into one lot...", so the applicant has already dealt with that issue. Rolf Ronning asked if that includes the lot on the other side of the road and S. Wilson said yes it does. Rolf Ronning said what P. Kenyon read said the "seven lakeside lots" and he feels the part of land given to Julie Denison was considered the seventh lot on the lakeside, so the lot across the road is not included. H. Koster said the applicant didn't give Julie Denison a whole lot, just a piece of land in the lot line adjustment and added that the PB is wasting its time here.

P. Kenyon read additional PB minutes into the record regarding the removal of Lot 5 and said (1) she believes the lot across the road was originally labeled Lot 5 and that is the lot D. Roessler wanted removed and (2) she has a map showing the land hooks and showing it as one lot.

H. Koster said (1) the applicant's lawyer needs to talk to the Town's lawyer and figure it out—the PB is not spending this amount of time deciphering what the applicant should have been deciphering long before he came before the PB and (2) now he has to listen to the applicant's engineer saying it is the PB's fault.

Rolf Ronning said there was a motion that Lot 5 was not to be part of this and P. Kenyon said it was Lot 5 that was across the road that they wanted removed from the plan, but since then there has been the re-interpretation and that needs to be included. Rolf Ronning said (1) since there has always been a separate tax map number for Lot 5, when that motion was made it should have it a separate lot and that is the end of it and (2) it is a separate lot according to the County today. H. Koster said he doesn't even know what Lot 5 is as there have been so many different maps submitted. P. Kenyon said it was the lot across the road.

J. Gaddy said now there is an easement for lot six which breaks apart the whole subdivision and Rolf Ronning said he could get rid of the easement and asked if it would be a minor subdivision if there is no easement. H. Koster said if there were originally two separate tax numbers all along for the two sides of the road and the applicant eliminates the right-of-way for lot six to go in there, then it would be a minor subdivision. Counsel said (1) he agrees, except the applicant is now going to have to overcome the motion that was carried by this PB in April 2004 where the applicant said please aggregate everything and put it in to a unified parcel and the PB did and (2) the applicant asked for it and now it is all one and (3) there is an ambiguity and he would recommend going for the specific tax map number.

P. Kenyon approached the PB bench with the land hook map in an attempt to clarify the matter at hand and individual discussions took place for some time among P. Kenyon, the PB members, the applicant and Counsel. H. Koster said (1) the applicant's lawyer has to talk to the Town's lawyer to get this straightened out, because the he is not going to spend this amount of time next month on this, (2) he wants the applicant to find out exactly what he owns and where he owns it and (3) the interpretation of the APA and the interpretation of the Town of Bolton all has to be settled before it comes before the PB again as to major, minor, if the lots are one or two, etc.

Counsel said (1) he is going to carry the specific language of the 04/22/04 motion and go over it with Dave Rosebrook and if those tax map numbers that existed back then—lots 185-3-25, 185-3-26, 185-3-27, 185-3-28, 185-3-29, 185-3-30 and 185-3-31 are properly characterized as the so-called "lakeside lots", they should all be one parcel and it is entirely possible that that in and of itself has created a distinction where things on one side of the road with lake frontage are one lot and things on the other side of the road are a different lot tax map wise, (2) he admits he doesn't honestly know what the applicant's

plan is, but he will at least know what the tax map numbers were and what they comprehensively joined together, which he will present back to the PB in writing, (3) then the PB needs to deal with it and tell the applicant whether using the upland lot and drives a right-of-way through it and permits lake access to that other lot, whether the PB would consider that part of a comprehensive five-lot subdivision and (4) he (Counsel) will also contact Ellen George to clarify what she meant by “four lots”.

H. Koster said when this comes up for approval, regardless if it is for four or three lots on the lake, the PB will be asking for a major stormwater because of the location. Counsel said yes, not as a major subdivision, but as a major stormwater, which the PB has to put in writing. P. Kenyon said it does say in the Ordinance that it does have to be in writing as to why it is being considered a major stormwater. Counsel said he sure the PB will have ample reason for that.

J. Gaddy asked if there are connections of land that is not contiguous with land hooks, what sort of statute of limitations exist that the lot across the street couldn't be granted access to Trout Lake at some later time. Counsel said (1) if the PB puts on the subdivision plan that there shall be no further access, this PB knows that at some later date a future PB may be asked to rescind that and no one will remember why and (2) it is possible that a future PB could may be asked for permission to run the extra lot through the other shorefront.

Motion by Donald Roessler to table the application for further required information to be provided by the applicant to allow Town Counsel to determine the prior subdivision history of the property in regard to its current subdivision status, including the APA's prior determinations. **Seconded by** Sandi Aldrich. **All in favor. Motion Carried.**

10) SD05-25 MCGURL, THOMAS. Represented by Atty. Jonathan Lapper & Matthew Steves LLS. Seeks lot line adjustment between those parcels designated as Section 170.00, Block 1, Lots 22.1 and Section 185.00, Block 1, Lot 72. Then subdivide into 19 lots that parcel designated as 170.00-1-22.1. Zones RCL3, LC45 & LC25. Property Location: 539 & 520 Trout Lake Rd., known as Twin Pines Resort. Sketch Plan Review. Major Subdivision. Subject to SEQR. *This item was tabled at the October 20, 2005 meeting pending additional info.*

This item was tabled.

Other Business:

1. P. Kenyon said the PB has an Article 78 from Twin Bay Village for the McNulty marina.

2. P. Kenyon asked if any PB Members object to applicants supplying the PB with half-scale drawings as long as the dimensions are included and she gets one copy of the full-scale drawings.

H. Koster said that when you reduce a drawing you no longer can scale it—even if you reduce it half-size you can no longer scale it. S. Wilson said the reason not to is right there and H. Koster said the reason to do it is because the PB gets a lot of big bulky plans all the time. S. Aldrich said she would rather be clear in what she is looking at.

The PB Members agreed that they would like to continue getting full-scale drawings because they need to see the details.

3. H. Koster said (1) the letter received tonight from Chris Navitsky, Lake George Waterkeeper, is telling him that: (A) this PB knows nothing and he (Chris Navitsky) is the professional here and (B) H. Koster doesn't put anything in official files; (2) everything is official that goes on here, (3) this is not a Public Hearing and when Chris Navitsky comes and sticks a letter in front of his nose when the meeting starts, he is not going to read this into the public, but it is part of the official application and goes into the record, (4) this letter is very resentful to him (H. Koster) and he thinks Chris Navitsky is starting to get some action going to get his name in the paper again like he did last time and (5) this letter is very offensive—Chris Navitsky is telling him that the PB is not qualified and he (Chris Navitsky) is the only one qualified to discuss stormwater management.

Chris Navitsky, Lake George Waterkeeper replied by saying (1) some people don't have experience and his letter said that through his and other professionals' letters, they provide expertise outside of the PB for people that do not have that expertise. H. Koster said (1) what Chris Navitsky has to understand is that these are not Public Hearings here—they sit here until up to 10:00 pm, 11:00 pm, 12:00 midnight and 1:00 am—if he sets a precedent to read Chris Navitsky's letters and Chris Navitsky's letters only because he is supposedly a professional, that means that everybody else that writes a letter to the PB is entitled to have it read also, then the whole thing becomes a Public Hearing and we're here until 3:00 am, (2) the PB decides as a board when it is a Public Hearing and when it is a Public Hearing everything gets read and becomes part of the record and (3) this is not the ZBA—the ZBA is a Public Hearing—every meeting is a Public Hearing—this board is not and Chris Navitsky has got to let this PB try to do its job.

Chris Navitsky said (1) he is not requesting every letter of his be read, but they are public comments, (2) he didn't say the PB was doing anything illegal—he never claimed that. H. Koster said Chris Navitsky may not have said the PB is doing something illegal, but he is bad-mouthing the PB. Chris Navitsky said (1) he doesn't think he is bad-mouthing the PB, (2) he said he was requesting that this information be recognized at the meeting and that was his intent, (3) what he did say in his letter is that he deals with several Planning Boards in the basin and this is by far the hardest to get public comment into the record.

H. Koster said Chris Navitsky has admitted before that the Bolton PB does the best job of review in the Lake George basin. Chris Navitsky said (1) this PB does a very good job, but he is firmly confident is saying that this is the hardest PB to get public recognition on some comments or to be heard and (2) he is not saying he is the expert by any means, but

there are also letters from other people like the LGA for example. H. Koster said exactly, there are people who come into the meeting with a six-page letter that Chris Navitsky wants him to read on every project. Chris Navitsky said no, he doesn't want the PB to read every letter and H. Koster said no, just all Chris Navitsky submits. Chris Navitsky said (1) no, absolutely not—he tries to condense his letters and if there is a long one, he tried to condense it into a single page memo from pages of technical comments, which is what he read at the public hearing and (2) he doesn't want the PB to have to go through that and read every word anyone writes, but if there is information there that could raise an eyebrow with the public.

H. Koster said every PB Member gets Chris Navitsky's letters and asked why the PB has to read it publicly. Chris Navitsky said maybe not read it, but recognize it so it may prompt public in attendance to approach the Zoning Office to see the letter. H. Koster said it is the PB's decision whether to have a Public Hearing and at the point the PB has a Public Hearing then everyone has the right to say whatever they want. Chris Navitsky said he agrees with that.

H. Koster said (1) on many occasions he has let Chris Navitsky speak even when the PB has not had a Public Hearing—as he has let other people speak when the PB has not had a Public Hearing—when the concern is that great, (2) he doesn't feel it is right to allow Chris Navitsky to speak on every project before the PB, just because he has the title of Waterkeeper and (3) he doesn't like the wording of Chris Navitsky's letter, because Chris Navitsky is bad-mouthing this whole PB. Chris Navitsky said he is not and H. Koster said well, he did. Chris Navitsky said he spends a lot of time researching the PB's materials and writing his letters—he's not just submitting things. H. Koster said he is not saying Chris Navitsky isn't doing his job, but the PB needs to be able to do its job as well.

H. Caldwell said it would be helpful to get Chris Navitsky's and the LGA's comments earlier in order to review them. Chris Navitsky said (1) that is true and (2) he would like to work it out with P. Kenyon, because sometimes they can't get in to review the files and sometimes the files aren't available to him and others until a week before the meeting. P. Kenyon said she takes exception to that, because the PB Members always have their packets long before a week. Chris Navitsky said (1) he knows the files are not always available and (2) he will make a strong effort to get his letters to the PB more quickly.

Kathy Bozony of the LGA said (1) she has the same problem too regarding the timing of when the PB gets its packet and when she gets the PB meeting agenda, (2) what she did this week was mail all of the PB Members her comments directly to their homes, but she didn't have the correct addresses for all of them, which she got from P. Kenyon this morning and (3) if it is alright with the PB Members, she would like to send her comments to them directly to their homes or P.O. Boxes so the PB Members will get them a couple of days before the meeting.

J. Gaddy said he appreciates others' insight and encourages people to keep submitting information.

Chris Navitsky said what he meant was expertise outside that of the PB and the Planning and Zoning Staff—he is an engineer—he is not a writer—so he apologizes if he did not express himself accurately.

5. J. Gaddy said (1) on another note, the PB will be looking at Saddle Brook again, there was just a big flow of water there and there are some big infiltration impacts there even prior to development and (2) he is still not convinced that it is not initiating off of Cat Mountain and Thomas Mountain. H. Caldwell said Cobblestone was pretty bad too. PB Members said they'd take a look at the location.

Meeting adjourned at 10:04 pm.

Respectfully submitted by
Jennifer Torebka
Recording Secretary
01/29/06