

**Town of Bolton  
PLANNING BOARD  
MINUTES  
Thursday, June 22, 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 = LGPC  
DEC = Department of Environmental Conservation

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

**Absent:** Chairman Herb Koster

**PUBLIC HEARING:** None

**REGULAR MEETING:**

Acting Chairman H. Caldwell opened the regular meeting at 6:05 pm by asking for corrections to the May 18, 2006 minutes.

**Motion by** Sandi Aldrich to approve the May 18, 2006 minutes as presented. **Seconded by** Donald Roessler. **Five in favor. One abstained (H. Caldwell, as he wasn't present at the May 18, 2006 meeting). Motion carried.**

1) **RE-APPROVAL of SD05-21 MORGAN, WILLIAM.** Seeks re-approval to re-aggregate those parcels designated as Section 156.00, Block 2, Lot 75 & 76, approved by the Planning Board on 9/22/05 and never filed. Zones RCL3 & LC25. Property location: 5477 Lakeshore Dr. Minor Subdivision. Sketch Plan Review. Subject to SEQR.

D. Roessler asked if there were any changes made to this application since the last time the PB heard it and P. Kenyon said no.

**Motion by** Donald Roessler to reapprove SD05-21 based on the same findings set forth on 9/22/05. **Seconded by** Sue Wilson. **All in favor. Motion Carried.**

2) **SPR06-30 BOLTON RESCUE SQUAD.** Represented by Peter French. Seeks Type II Site Plan Review for an advertising sign greater than 4 sq. ft. Specifically 10 sq. ft. is proposed. Section 171.15, Block 2, Lot 32, Zones GB5000 & RM1.3. Property Location: 26 Horicon Avenue, Bolton Central School. Subject to WCPB REVIEW. Subject to SEQR.

Missy Cady, representing the Bolton Rescue Squad, said that her understanding is that the proposal is for one sign on 9N attached to the fence in front of the ball field across from Maranville's.

D. Roessler asked how long the sign will be hanging there and Missy Cady said it would be put up just before July 2<sup>nd</sup> or 4<sup>th</sup> and taken down just after Labor Day. D. Roessler asked if the proposed sign is for 2006 only and Missy Cady replied by saying yes, while the Bolton Rescue squad has a craft fair each year, she cannot say whether or not they plan on using the same sign for next year. P. Kenyon said in talking with Peter French and Gail Street her understanding is that this proposed sign is for this year only.

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** Donald Roessler to accept the application as complete, waive a public hearing and grant approval as presented. The sign can be placed in the area approved from June 23 through September 6, 2006. This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. **Seconded by** Sandi Aldrich. **All in favor. Motion Carried.**

**3) SPR06-27 BRAND, JOHN & DONNA.** Represented by Dennis Dickinson of D.L. Dickinson Associates. As part of subdivision (SD03-01) and stormwater (SPR03-31) approvals granted for the Wrights Farm Subdivision on 2/26/04, seek Type II Site Plan Review for a major stormwater project and the construction of a proposed single-family dwelling in the LC25 zone on lot "14". Section 140.00, Block 3, Lot 7, Zone LC25. Property Location: West side of Federal Hill Rd. Subject to WCPB REVIEW. Subject to SEQR. *Note: The stormwater portion of this application was tabled at the May 18, 2006 meeting pending Town Engineer, Tom Nace's, review and approval. The WCPB determined no county impact.*

D. Roessler asked if Town Engineer Tom Nace has approved the plan and P. Kenyon said yes, Tom Nace received the revised plan and approved it. Dennis Dickinson, representing John and Donna Brand, said he included the major stormwater in the plan that was reviewed and approved by Tom Nace.

Dennis Dickinson said that (1) the plan is pretty straight forward and is in compliance with the major stormwater plan for Wrights Farm that the PB approved some months ago and (2) regarding the issue of driveway length, the driveway is an existing road that is being utilized for a driveway, which pre-existed the subdivision, so they didn't need to include the entire road in the major stormwater plan, although he did allocate an additional 500 ft. and they used about 400 ft. J. Gaddy asked if because it is a subdivision road then it didn't have to be used in the calculations on this lot for stormwater. Dennis Dickinson replied by saying that stormwater is based on increased impervious area, so if you go to a site and it has existing roads and you utilize them, you are not increasing the impervious area of those roads.

J. Gaddy asked if there is a way to have a standard for calculating the lengths of driveways for future applications and P. Kenyon said no, not at this time, but it could be addressed by the Zoning Revisions Committee.

Dennis Dickinson said (1) it is kind of a call thing when you do the plans—originally he'd come in with a subdivision plan with every lot having a house and driveway location on it, (2) he found over time that wasn't working out well because people were going farther away with the driveway, so he started allocating additional impervious area to cover himself on the major stormwater plans, (3) the cul-de-sac road follows the original road—they didn't use any of that credit in their stormwater—they considered that whole thing to be new and (4) two of the driveways for two of these large subdivision lots were already there since County Route 11 was built. S. Wilson asked if the original road that goes to the cul-de-sac and the driveways existed and Dennis Dickinson said yes, they were there—they didn't count the original road in the new road. J. Gaddy said he knew there was extensive excavation, but he didn't remember seeing the roads up there and Dennis Dickinson said the roads were there. Counsel said that fundamentally, he thinks what Dennis Dickinson has represented is correct—he is not talking about calculations, but the cumulative aspects and the jumping off point is beyond the existing roads.

J. Gaddy asked how the road has held up with the rains and Dennis Dickinson replied by saying that (1) all the roads including the main road have held up real well and (2) he has to fill out a report after every half-inch or more rain event and if there hasn't been a storm of that nature in an extended period of time, he goes up and does an inspection every couple of weeks anyway. J. Gaddy asked if a developing engineer has to make a report every time there is more than a half-inch of rain and S. Wilson asked who Dennis Dickinson reports to. Dennis Dickinson responded by saying that he reports to nobody, but if the DEC shows up and wants to see his report book it has to be done. J. Gaddy asked if for every project there is in town that has a stormwater requires a report and Dennis Dickinson said that every major stormwater plan you have has to do this report if it is more than an acre. S. Wilson asked how long the reports have to be done and Dennis Dickinson said forever—until the subdivision is totally built out and every home is in and every lot has been sold.

D. Roessler asked if the culvert pipe shown on the side of Lot 15 drains toward Lot 15 and Dennis Dickinson said yes, it is a pre-existing drainage pattern. D. Roessler asked if there is a lot of water that goes that way and Dennis Dickinson said no.

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

Sue Wilson 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 constitutes 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.

**Motion by** Sue Wilson to accept the application as complete, waive the public hearing and approve the stormwater portion of the application as presented and approved by Town Engineer, Tom Nace. This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. **Seconded by** Sandi Aldrich. **All in favor. Motion Carried.** *Note: The conditions of approval set forth on May 18, 2006 when approving the single-family dwelling portion of the application continue to apply.*

- 4) **SPR06-16 SHEPANZYK, DEREK.** Represented by Dennis Dickinson of D.L. Dickinson Associates. For the construction of a proposed single-family dwelling, seeks Type II Site Plan Review for a new land use within 250' of the lake shore in the RCM1.3 Zone. Section 213.13, Block 1, Lot 51, Zone RCM1.3. Property Location 3932 Lake Shore Drive known as the Monaco Motel. Subject to WCPB REVIEW. Subject to SEQR. *This application was tabled at the May 18, 2006 meeting as no one was present to present the application. The WCPB determined no county impact with the condition that the plans identify the capacity of the septic system and water supply system in regards to maximum capacity of usage.*

Dennis Dickinson, representing Derek Shepanzyk, gave an overview and said (1) the Shepanzyks bought the motel and some time ago, previous owners got permission to convert two of the motel rooms into a two-bedroom office, (2) there is also an existing three-bedroom apartment underneath in the foundation of the single-story motel complex, (3) the applicants wish to build a new home on this property, as no home currently exists there, (4) the applicants have a need for a game room for the children and the people staying there—especially on rainy days, (5) the applicants want to remodel the three-bedroom apartment and make it just a game room with no sleeping quarters, bathrooms, etc., (6) the applicants want to return the office space to one rental unit with two bedrooms, (7) the proposed new home will be three bedrooms taken from the existing apartment, so there is no change in use or density—it is simply a conversion to a game room and putting up a new home and (8) the ordinance says if they are within 250 ft. of Lake George, they need to come to the PB under site plan review and they are 230 ft. from the lake at the closest point which the best placement for the house.

J. Gaddy asked how many existing rental units are on the south side of the property and Dennis Dickinson said six. J. Gaddy asked if the applicants will be getting rid of those units and Dennis Dickinson said no, what the applicants want to do is move the office into their house so they can live in the house and run the motel. D. Roessler asked if

there will be eight motel room units and Dennis Dickinson replied by saying the applicants have six units in the south building and ten or eleven units in the long building.

J. Gaddy asked how the living quarters developed on the north line of the lot and Dennis Dickinson said apparently that is where the previous owners lived—in that apartment—and over time the motel has changed hands and the decision was made by the previous owners to be up on the road and to have an office.

D. Roessler asked if the proposed house would be a year-round residence and Dennis Dickinson said yes. P. Kenyon asked for clarification in regards to density for the apartment/rental unit closest to the road and Dennis Dickinson replied by saying that two motel rooms, two bedrooms, put a second floor on it, put the bedrooms upstairs and converted the downstairs into the living area. P. Kenyon said then it was one unit—upstairs and downstairs and office and Dennis Dickinson said yes, the apartment kind of sat there—they had a real hard time renting it. P. Kenyon asked what the applicants are proposing to do with that area now and Dennis Dickinson said they are just going to convert it back to a two-bedroom rental unit. P. Kenyon said that because it is already a rental unit upstairs, it wasn't considered to be any additional density. Counsel said it is density neutral, so it stays the same. H. Caldwell said that means they are saying that a small three-bedroom apartment is the same as a house. Counsel replied by saying that (1) it has been said before by the town, (2) the town got backed into it by a similar situation where Mr. DiNapoli of Porter's Cottages had motel units but wanted to build a house, sought a variance from the ZBA, the ZBA gave him the variance, it went to the APA and the APA took the position it was increasing densities and overturned the variance, they then ruled that it would be okay if one of the motel units was abandoned, which is the rule of Bolton and what is required by the APA. P. Kenyon said it was brought back to the ZBA, discussed, and approved. J. Gaddy said then the Town is getting another structure in a high-use area without getting something back. Dennis Dickinson said that they have given up the three-bedroom apartment.

S. Aldrich said nothing is staked out on the site so she is not sure of the exact location and asked about the small outcropping of rocks. Dennis Dickinson said the proposed house location is sitting right on top of that. S. Aldrich asked if blasting will be necessary and Dennis Dickinson said no, they are not going to blast—they will simply have a crawl space underneath it where the rock is and as it moves up the side, there will be room for a full foundation, which is where the garage will be.

S. Aldrich said (1) it is very wet in that area and (2) it looks like most of the stormwater from basically Route 9N east is running right into that house site. Dennis Dickinson said it is running around it and there is a lot of water. S. Aldrich asked if that has been taken into consideration. Dennis Dickinson said yes and showed the water flow on the map. S. Aldrich asked if the new stormwater takes care of the new house and whatever is coming down the hill at that new house and Dennis Dickinson said no. S. Aldrich asked what they are going to do about that and Dennis Dickinson said nothing—he wasn't planning on doing anything about it.

Regarding the proposed game room, J. Gaddy asked if there is anything in place currently for the guests and Dennis Dickinson said no. J. Gaddy asked if lofts are considered bedrooms and Counsel said according to the New York State Building Code, which the PB is not asked to apply or have jurisdiction of, that is merely habitable space.

D. Roessler asked where the office will be located in the proposed house and Dennis Dickinson said he thinks it would be where it is now—in the living room area.

H. Caldwell said the PB is going to use the DiNapoli case as sort of a landmark case and asked if DiNapoli is going to have to tear down a building to build the house. Counsel said DiNapoli did—he removed one unit, razed it—then he could put up his home, because he did not change the overall inventory of the principal buildings. H. Caldwell asked if the PB should be asking this applicant to tear down the three-bedroom unit and Counsel replied by saying that this is a site plan review, so the PB can make a reasonable request. H. Caldwell said that DiNapoli could have done the same thing in converting that. Counsel said (1) the applicant could make it a duplex and pull the partition out and that converts two into one and then no buildings are removed—yes, you could do that, (2) there were variables there and he realizes the facts were being moved around and played with—not in a negative sense—and the eleven had to remain eleven and (3) in this case, whatever the total inventory is has to remain in this same thing—it is density and principal buildings.

J. Gaddy said (1) he would like to get something back in this kind of a situation and (2) he would like to see a reduction in the existing structure if the PB is in the mood to go and approve having a house built in this location, because he thinks it is already a congested area and he doesn't want to necessarily see it more congested. A precedent would be set. Dennis Dickinson said that he doesn't understand that philosophy as they have eliminated a three-bedroom apartment. J. Gaddy said that by converting the structure to a game room makes it neutral in term of bedrooms, but it is not neutral in terms of what is on the lot. Dennis Dickinson asked if he moves the house back 20 ft. then he wouldn't be required to come before the PB for site plan review and J. Gaddy said he guesses that is correct.

D. Roessler asked what the height of the building is on the lakeside and Dennis Dickinson said that it is 33.5 ft.

S. Aldrich spoke of WCPB's concerns regarding septic and water. P. Kenyon said that Dennis Dickinson knows she (Kenyon) has issues with the septic and she will make sure everything is compliant before permits are issued.

S. Aldrich asked if this needs a variance because the applicant doesn't have the needed shoreline and P. Kenyon said no, because the applicant has the same density the shoreline doesn't come into play. Counsel agreed and said that is because the applicant is not adding. H. Caldwell said you are talking about density as far as bedrooms—not as far as square footage. S. Aldrich read from page 200-43 of the zoning that says, "...minimum lot width measured along the shoreline for each one family residential structure should be

60 ft. in the GB and RCH Zones, 150 ft. in RM1.3 and RCM1.3 Zones...” and asked if that is what this is. P. Kenyon said (1) she believes that because the applicant is not changing density, but equaling it out that the applicant is not subject to that and (2) it is not the decision the Zoning Office has made, but the decisions the APA and ZBA have made for the Zoning Office—these are what they have to go by.

S. Aldrich asked if it is correct that this is still a one-family structure where there wasn't one before and Counsel replied by saying that (1) he doesn't think you can honestly say that, but you do have to accept the possibility that what this applicant has offered is that they have a three-bedroom apartment that was the primary residence, they are now going to abandon that use and create a free-standing building without increasing density, (2) the question then becomes, what became of the three-bedroom apartment and Dennis Dickinson supplied the answer that it is no longer habitable space and will be used as a general game room, (3) accepting that means there is no change in density and it is not entirely the PB's rule, it is one that the town literally got backed into as it came from Mr. DiNapoli and the APA.

S. Aldrich asked if Mr. DiNapoli was originally approved for a variance and Counsel said yes, Mr. DiNapoli sought a variance and he got it. S. Aldrich asked what reason Mr. DiNapoli was looking for that variance and P. Kenyon said it was for density. Counsel agreed and said (1) it was to add Mr. DiNapoli's house to his 11-unit motel parcel, (2) the answer in Bolton was yes and the APA said no, Mr. DiNapoli can't have 12—11 is enough and given the APA's ruling, Mr. DiNapoli decided he would take one of his 11 and undo it and (3) according to Counsel and P. Kenyon, they decided Mr. DiNapoli's decision was not an increase in density. The ZBA agreed.

H. Caldwell said then they are not even looking at square footage and Counsel said no, it is a principal building for a principal building. S. Aldrich said the size doesn't matter then and Counsel agreed. H. Caldwell said there is going to be some negotiating if the applicant wants to leave it at 230 ft. from the lake within the site plan review limits. J. Gaddy said that SEQR C4 reads, "...the community's existing plans and goals as officially adopted a change in use or intensity of land for other natural resources....," so on that basis, where there is a bedroom proposal before the PB there is not a neutral square footage for stormwater. Counsel said no, the PB doesn't.

J. Gaddy said he is concerned with SEQR C4 and he would want something in return for getting more structure. Counsel asked if there is any duplex that could be made into a single or two units that could be made into one and Dennis Dickinson said he doesn't think the applicants would have a problem making two units into one. Counsel said that would then be the applicants' start in making the density situation improved as opposed to neutral, which would be going in the direction it sounds like the PB is looking for.

S. Aldrich asked what the water source is and Dennis Dickinson replied by saying the applicants have a well and pointed out the location on the map.

S. Wilson said the PB is looking to not increase density.

**Motion by Sue Wilson** to table the application pending additional information as follows: 1) The overall density to be reduced. 2) Dimensions are to be shown on the elevation drawings, including the height, length and width. 3) The building location is to be staked out. **Seconded by Donald Roessler. All in favor. Motion Carried.**

5) **FOY SR., EDWARD.** Seeks to discuss condition of approval set forth by the Planning Board on June 22, 2000, when approving the Indian Summit Subdivision SD99-08. The condition reads as follows “No further subdivision of any parcel shall occur.” Section 140.00, Block 2, Lot 3, Zone RL3. Property Location: Padanarum Road.

Edward Foy, Sr. gave an overview and said that (1) he and his son Keith Foy have several lots in the Indian Summit Subdivision totaling approximately 16 acres, (2) the roads are in great condition, (3) there are no power lines that run through the property—they go around and (4) they are proposing to take Lot 9, which was originally 9 acres (3 acres of which they gave back to the subdivision so the town could have more of a common area at the base of the mountain) which is now 5-6 acres and give 2.5-3 acres of it to his son Jesse Foy as a gift (with no monies being transferred) to build his family home there in order to remain in the Town of Bolton Landing.

D. Roessler asked if it is correct that the applicant is looking to subdivide Lot 9, which is currently a 5-6 acre parcel into two parcels being roughly 2.5-3 acres each and Edward Foy, Sr. said yes. D. Roessler asked how access would be gained to the proposed 2.1-acre parcel and Edward Foy, Sr. replied by saying that it is on the roadside, so there are several different areas where you could put a driveway in.

J. Gaddy asked if it is correct that this doesn't fall into gifts or inheritances, because it hasn't been owned by the Foy family since before 1973. Counsel said (1) yes, and added that (2) he would like the PB to discuss it tonight on one level only and that is that if “no” remains “no,” then Mr. Foy deserves to know that and if no has the possibility of changing to “maybe yes” then this has to be tabled so that all other parties who are in the subdivision and have relied upon the subdivision plan and site plan review have notice and the opportunity to be heard.

J. Gaddy said (1) his tendency is to say no to this on the grounds that when the subdivision was developed, with the zoning as it is, that you are supposed to have big lots, what you come up with is the idea that all of the houses are now concentrated in one spot, (2) he doesn't think the intent of the minimum zoning acreage was that the houses would be concentrated in spots and (3) it is obvious to see with the great view up there why the houses are concentrated in spots, but he knows the PB has spent better than a year and a half on this topic, so his contention is to say no to this one.

Edward Foy, Sr. said (1) there are 2-acre lots up there now, (2) he is looking for the PB to look at the project—not for a no tonight, (3) he has talked with all of the owners up there and has submitted a letter from the president of the association, all saying they have no

objections to this project. D. Roessler asked if the HOA would have to be advised and Counsel replied by saying (1) yes, these people would have to be put on notice—they have the opportunity for notice and the opportunity to be heard, which is the path the PB would need to take if “no” means “maybe yes,” and (2) if “no” means “no” then you don’t have to go to the second step.

H. Caldwell asked if what is drawn in is the proposed house and Edward Foy Sr. said yes. H. Caldwell asked if this is the approved house for that site and Edward Foy Sr. said yes, he believes so. D. Roessler said he doesn’t think that is the approved location for a house, but he thinks that the lot was approved with the possibility of a house similar to that being there. H. Caldwell said they were approved to clear lots based on where the houses would go and Edward Foy Sr. said that is really the only place to put that house. S. Aldrich said that she read the minutes and she thinks they only approved clearing 30 ft. of the driveway—not lots. H. Caldwell said that the PB let him clear driveways—he did a little more than that—but for each lot he could do one lot, then he had to come back in—it was a long process.

J. Gaddy said that (1) while he knows Edward Foy Sr. wants it and it is hard for anybody to try to move to town—especially if you’re young, he is of the opinion that “no” means “no.” Edward Foy Sr. said (1) he is not here to argue, (2) when they bought those lots they knew they were buying them from Rolf Ronning and anything the PB told them they’d have to do they’d probably have to do—no question about it, (3) he is here tonight telling the PB that he can get almost 3-acre zoning up there and he can probably get pretty close to getting 3-acres a piece and it will have absolutely no impact on the subdivision and he will be giving the land to his son so his son can build a home, (4) he has no problem with what the PB tells him here, he is just asking the PB to not tell him no tonight, but to talk it over and think about it, see what the impact is going to be and let the 9 other homeowners weigh-in on the subject and (5) there is no exchange of money here or anything—this is all about his grandkids and his son.

D. Roessler asked what the future plans are for the other parcel and Edward Foy Sr. answered by saying that the other part of the parcel where the home is probably going to go right where it is plotted on the map and that will be his son Keith Foy’s residence.

H. Caldwell said he is also inclined to say no, but he thinks the PB has to take each case on its own merits and he would be willing to have another look at this project. Edward Foy Sr. said that is all he is asking.

D. Roessler said that (1) he would like to see letters from the other lot owners to see their thoughts and to get a general consensus of how everybody else feels up there and (2) he is a little reluctant, because the PB will be setting precedent with this decision and that would need to be taken into consideration if somebody else comes in with a similar situation. Edward Foy Sr. said he understands that and added that he is not taking any money for this property.

D. Roessler asked how many lots the Foy family has in this subdivision. Edward Foy Sr. said that (1) they own three existing lots (Lots 5, 6, and 9) and (2) Lot 9 is the most logical one for this project because everything else runs downhill. D. Roessler asked if the other lots are bigger and Edward Foy Sr. replied by saying that they are all approximately the same size. Edward Foy Sr. approached the PB bench with the subdivision map and additional individual discussions ensued.

Edward Foy Sr. said there is a lot of road frontage on Lot 9. J. Gaddy said that (1) he is trying to deal with sick tree syndrome and (2) he would like the applicants to work on screening by camouflaging with trees so houses aren't so readily seen from the lake on the other lots that have lake views—he would like to make it a deed restriction. D. Roessler said he is not comfortable with that, because the other two lots have nothing to do with this application. Edward Foy Sr. said that (1) any trees that are down are inside the slope are now beyond maturity and (2) he won't butcher anything up there. J. Gaddy said he is not saying this applicant would do that, but he is concerned with what future owners might do as time goes on. Edward Foy Sr. said that (1) he understands that and (2) what they do on Lot 9 will be very ethical in terms of trees—they are not looking to do anything except enable his son Jesse to build a home. J. Gaddy said he has all the best wishes for this applicant and he is not worried with the applicant or his family—he is just trying to get something out of it. Edward Foy Sr. said he would be happy to work within any deed restriction guidelines the PB wants to give him.

Counsel asked what the PB hopes to accomplish at the next meeting because if in order to give an approval the PB would have to set a Public hearing. H. Caldwell said he doesn't think they will be ready next month for a Public hearing.

**Motion by Donald Roessler to table the application pending additional information as follows:** 1) The applicant is to obtain letters from all property owners in the Indian Summit Subdivision expressing their thoughts on the request. 2) 10 copies of approved subdivision map to be provided. 3) The house and driveway locations for both lots to be shown on the map. **Seconded by Sandi Aldrich. All in favor. Motion Carried.**

**6) SD06-06 FEDERAL HILL CORP.** Represented by Matthew Defty. Seeks to divide into 2 lots, that parcel designated as Section 156.00, Block 1, Lot 70.5, Zone RL3. Property Location: Federal Hill Road. Presently this parcel is shown as two lots on the tax rolls, 156.00-1-70.5 & 156.00-1-73. Sketch Plan Review. Minor Subdivision. Subject to SEQR.

Matthew Defty, representing Federal Hill Corp., gave an overview and said there is presently a 65-acre lot east of Federal Hill Road that they are looking to subdivide and sell 13.05-acres.

S. Aldrich asked if that is where the tax map has it divided now and Matthew Defty said (1) they have been historically taxed on two lots and (2) further review of the deed says that it is all one lot, so for the purposes of this application it is one lot they are looking to subdivide into two lots. P. Kenyon said the error was made when the new tax maps were

made because one parcel was on one sheet and one on another sheet so it became two separate parcels, but it is clearly under one tax map parcel number.

H. Caldwell asked if the idea is to break off Lot 1 to have some kind of a driveway from Church Hill Road and Matthew Defty said yes. H. Caldwell said that the PB is aware there is a subdivision in the works for the other side of the road and P. Kenyon replied by saying that (1) she has done calculated density in trying to figure out the parcels and when they were created and (2) she came up with 224 acres total with everything, four lots were created in the RL3 Zone (approx. 12 acres), three lots were created in the LC25 Zone (approx. 75 acres), so there would be about 87 acres of the applicants' overall density so it would be 224, and (3) asked if the road separating it would matter. Counsel said the road separating it would not matter—it is all comprehensively and mathematically viewed.

Matthew Defty said they have been paying taxes on three different lots, so from their perspective it looks like three separate lots and he would like to know more about the discussion pertaining to this being all one lot. Counsel said (1) that as required by the Zoning Code, P. Kenyon is calculating density in trying to ascertain that the overall density is not exceeded—it is very complex because the applicant has a couple of different zones and (2) the answer simply comes out that if P. Kenyon aggregates all parcels that are in the parent parcel the question becomes is there a density problem and the answer simply is no. H. Caldwell asked if this is minor or major and P. Kenyon said she believes it would be minor. Counsel agreed.

Matthew Defty said that on one hand the density is being looked at as a whole and Counsel replied by saying that after they get beyond the exercise on density, then there are sections within the Bolton Code that talk about subdividing land that falls into categories of major and minor.

P. Kenyon asked how many lots are proposed for the west side of Federal Hill Road in another pending application and Matthew Defty said nine. P. Kenyon asked how this should be handled because the applicant has another application that has been tabled pending additional information. Counsel said that if the other application has not yet been approved, this application would still be a minor.

S. Aldrich said she asked if density was considered when this applicant came in for the 9-lot subdivision and this was one parcel at that point and she then asked if this subdivision would affect the density adversely for the 9-lot subdivision application. P. Kenyon said (1) she is still researching it and (2) with 224 acres, and the applicant only using 87 acres and most of the parcel being in RL3, she doesn't think it is going to become an issue. Counsel agreed and said that he really thinks it is fair to the applicant to keep this application minor and to keep it in P. Kenyon's density calculations.

Matthew Defty said that when the question was asked in February when he was presenting the subdivision on the west side of Federal Hill Road, he was specifically asked if the west side was to be considered in conjunction with the east side of the road

and that clarification was given and someone said no. Counsel said it doesn't matter what side of the road it is on.

H. Caldwell asked if it is correct that the PB is looking at this as purely a two-lot subdivision that meets all the requirements and not looking at anything else on the property and Counsel said yes.

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 a public hearing and 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** Sandi Aldrich. **All in favor. Motion Carried**

7) **SD05-24 WESTWOOD FOREST WEST. Rolf Ronning.** Seeks to divide into 11 lots that parcel designated as 139.00, Block 1, Lot 8.1, Zones LC25, RR10 and RIL3. Property location: west side of Hendricks Road off County Route 11. Preliminary Plat. Major subdivision. Subject to SEQR. *Note: This item was tabled at the December 2005 meeting, pending major stormwater project and is in conjunction with SPR06-23.*

Rolf Ronning gave an overview and said (1) this item has been tabled for several months while Dennis Dickinson and his firm have created a major stormwater management plan for the subdivision that would be acceptable to Town Engineer Tom Nace—they have accomplished this, to which Pam Kenyon agreed. (2) they will not be able to proceed with the following agenda item until this one is approved and (3) this is a major subdivision and the PB probably wants a Public hearing and if it does, then that is what he's asking for, unless there are any other issues that need to be addressed.

J. Gaddy asked what the deepest fills are and Dennis Dickinson said that at Station 6 the fill is almost 10 ft. J. Gaddy asked if the cuts are similar because it looks like the cut between Lots 9 and 10 is 10 ft. and Dennis Dickinson agreed.

Rolf Ronning said they have done deep test holes. Dennis Dickinson said that (1) there are deep soils where the houses are, (2) the soil starts to peter out where the road drops off and (3) Town Engineer Tom Nace has reviewed and approved the stormwater, the road layout and the cuts and fills for this project.

J. Gaddy asked if it is a correct representation on page 8 of 11 that Station 50 would have a disturbance area for the road at 50 ft. wide and Dennis Dickinson said (1) yes, (2) page 2 of 11 shows a double stone retaining wall he put in to reduce clearing limits, (3) there are wetlands, which have been marked, located and professionally flagged and they have contacted the APA—APA wetland micro-specialist Mary O'Dell will be on site on

07/05/06 to make sure it meets APA approval and (4) they are using Charlie Maine, who is a soil specialist for the project.

D. Roessler asked if there is a limited number of days to vote on an item once the public hearing is closed and Counsel said yes, after a public hearing is closed the PB has 45 days to take action.

H. Caldwell asked if there is any feeling as to how the industrial lots will be used and Rolf Ronning said no, but they will be marketed as light industrial lots.

J. Gaddy said the power is in and asked who is responsible for picking up trees taken down by National Grid and Dennis Dickinson replied by saying that if the power company takes them down then they are responsible to clean them up. Rolf Ronning said that as far as he knows the power is all in and active.

D. Roessler asked if the County ruled on the application. P. Kenyon said (1) yes, Tom Nace reviewed and approved it and (2) the application hasn't been to Warren County yet. D. Roessler asked if the PB will have the County's ruling before the next meeting and P. Kenyon said yes.

**Motion by** Donald Roessler to schedule a public hearing for the preliminary plat on July 20, 2006 at 6:00 pm. The Wetlands Specialist's report is to be provided. **Seconded by** Sandi Aldrich. **All in favor. Motion Carried.**

**8) SPR06-23 WESTWOOD FOREST WEST. Rolf Ronning.** In accordance with Section 125.13C1 of the stormwater regulations, seeks Type II Site Plan Review for a major project to remove more than 15,000 sq. ft. of vegetation. 8.7 acres proposed. Section 139.00, Block 1, Lot 8.1, Zones LC25, RR10 & RIL3. Property Location: West side of Hendricks Road off County Route 11. Subject to WCPB REVIEW. Subject to SEQR. *Note: This application is in conjunction with SD05-24 and has not yet been sent to the WCPB*

Pam Kenyon reiterated that the stormwater controls have been approved by Tom Nace.

Dennis Dickinson said that there are eight ponds related to road drainage, each of which has a controlled outlet. J. Gaddy asked if they are constructed ponds and Dennis Dickinson said yes. J. Gaddy asked if it is correct as shown that Ponds # 2 and #3 are approximately 100 ft. across and Dennis Dickinson said yes, it is close to that. J. Gaddy said that Pond #2 is close to that too and Dennis Dickinson responded by saying yes.

J. Gaddy asked if there was logging done and Rolf Ronning said yes, about two or three years ago. J. Gaddy said the culvert held up after the last big storm and it is perfectly functioning.

J. Gaddy asked if there is a separation requirement between the leach field and retention Pond #7 and P. Kenyon said yes, a 20 ft. separation is required.

J. Gaddy said that the driveway up to Lot 5 has questionable grades and Dennis Dickinson responded by saying that the grades comply to what is required in the Ordinance.

H. Caldwell asked if the PB is going to table this one since the application hasn't gone to Warren County yet P. Kenyon said the County meets on the second Wednesday of the month and she has until next Friday to get complete applications to them.

Rolf Ronning asked if a separate public hearing is needed for this item or if it could be heard in conjunction with the public hearing for the previous agenda item. D. Roessler said he thinks the PB should keep two public hearings since they are two separate items.

H. Caldwell asked if everything is in on stormwater and Counsel said (1) yes, everything except Warren County saying it is ok, and (2) the Town Engineer has signed off, so this item is ready for a public hearing. H. Caldwell asked if the PB would be out of step in scheduling a public hearing before having Warren County's ruling and P. Kenyon replied by saying that it shouldn't be a problem because the PB will not be having the public hearing until the County has made a decision on it. Counsel agreed.

**Motion by** Donald Roessler to schedule a public hearing for major stormwater project on July 20, 2006 at 6:00 pm, to be heard in conjunction with the subdivision(SD05-24).  
**Seconded by** Sue Wilson. **All in favor. Motion Carried.**

**Other Business:**

1. Episcopal Church Sign

J. Gaddy asked if the lettering on the sign put up at the Episcopal Church is consistent with what the PB asked for and P. Kenyon said she has looked at it a couple of times and she thinks it is accurate. J. Gaddy said it was a pretty good-sized sign. H. Caldwell said he doesn't think what was presented is exactly what was done.

J. Gaddy said he thinks there are a large volume letters for the thrift shop and smaller volume letters for the "God Bless Henriette's." P. Kenyon said it is approved as presented. S. Aldrich said the PB approved the dimensions of the sign—not the size of the lettering on the sign. J. Gaddy said his thought is that everything would shrink proportionally to what was presented and approved.

Counsel said that (1) he doesn't think the PB held the Episcopal Church to that limit and (2) his impression is that the representatives of the Church left with the understanding that if the sign was made smaller it would be approved by the PB—it is reasonable, but there is no expectation by a mandate that the Church should shrink the letters too—so, in a sense, the Church shrunk the field and left the letters. J. Gaddy said it doesn't look as good. P. Kenyon said that she would check it again and report back to the PB.

## 2. Moratorium on Ridge Top Development and More Severe Civil Penalties

J. Gaddy asked if the PB is in the position to recommend to the Town Board action against Harrington for the clear cutting that was done. Counsel said (1) he is speculating, but he doesn't think the PB will see anything dramatically different in terms of what the TB calls its alternative remedies, which ordinarily are imposing a monetary civil penalty and the TB can and often does say the applicant has to bring it into compliance where Counsel would then suggest it be returned to the appropriate board, in this case the PB to come up with some plan on how this thing could be remediated and (2) usually what happens to the people who are accused of a code violation is that they often find themselves back before the ZBA to try to get it corrected with the proper setback, etc., so the TB simply knows how to remand it and Counsel would have to make sure to catch it to have it returned to the PB.

J. Gaddy asked what constitutes a violation—every single tree or the act itself over the widespread area and Counsel replied by saying that it is open to interpretation—it could be every tree or it could be the act cumulatively for every week. J. Gaddy said he would estimate it is a couple of thousand trees—it is a large area. P. Kenyon said that it is a huge area—she was surprised when she went up there. J. Gaddy said he isn't sure that all the TB members have been to that site yet.

## 3. Article 78 for the McNulty Marina Item

H. Caldwell asked what the status is on the Article 78 for the McNulty Marina item. Counsel said (1) that was withdrawn, (2) the Town presented it, Twin Bay Village prosecuted it, and the McNulty group decided they wanted to abandon it and they did—it was a combination of that they didn't want to litigate it and they didn't like the plan that they got approved and (3) he (Counsel) asked the TB to give him the authority to enter into a stipulation of discontinuance in that litigation if it is made available because it is kind of an exercise in futility to march off to the Court and suggest that the Town did nothing wrong and then turn to the applicant and the applicant is not there, but has abandoned it.

Meeting adjourned at 8:40 pm.

Respectfully submitted by  
Jennifer Torebka  
Recording Secretary  
07/03/06