

**Town of Bolton
PLANNING BOARD
MINUTES
February 15, 2007
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: Chairman Herb Koster, John Gaddy, Donald Roessler,
Susan Wilson, Town Counsel Michael Muller, Zoning Administrator Pam Kenyon

Absent: Henry Caldwell, Sandi Aldrich and Chauncey Mason

PUBLIC HEARING:

H. Koster opened all public hearings at 6:11 pm.

H. Koster noted that there were three PB members absent, so applicants would need a favorable vote from all four members present for their application to be approved, therefore the option to postpone agenda items was available to all applicants.

Items 1 & 2 were heard together.

1) **SD04-08 BRANDOW, EDWARD. Trout Lake West.** Represented by Rolf Ronning. Seeks to divide into 5 lots that parcel designated as Section 185.00. Block 1, Lot 31, Zone RCL3. Property Location: Trout Lake Road. Major Subdivision. Preliminary Plat. Subject to SEQR. *Note: The public hearing was kept open from the January 2007 meeting pending additional information. To date an agreement has not been reached between Julie Denison and Dr. Brandow and Town Engineer Tom Nace is re-reviewing the stormwater plans.*

Dennis Dickinson said that there is no resolve on this matter yet.

2) **SPR06-21 BRANDOW, EDWARD. Trout Lake West.** Represented by 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. 35,750 sq. ft. is proposed. Section 185.00. Block 1, Lot 31, Zone RCL3. Property Location: Trout Lake Road. *Note: The public hearing was kept open from the January 2007 meeting pending additional information. To date an agreement has not been reached between Julie Denison and Dr. Brandow and Town Engineer Tom Nace is re-reviewing the stormwater plans.*

Motion by Donald Roessler to extend the public hearing on SD04-08 & SPR06-21 until the March 2007 Planning Board meeting pending additional information. **Seconded** by Sue Wilson. **All in favor. Motion Carried.**

3) SPR06-43 SIMONSON, RICHARD & VIVIAN. Represented by Atty Melissa Lescault of McPhillips, Fitzgerald & Cullum LLP & D.L. Dickinson Associates. For the construction of a proposed single-family dwelling, seek 1) Type II Site Plan Review for a) a single-family dwelling in the LC45 zone; and b) a major stormwater project to remove more than 15,000 sq. ft. of vegetation; Approximately 15,000 is proposed. 2) Type I Site Plan Review is also sought for development within 100' of a wetland. Section 186.18, Block 1, Lot 31, Zones RCH5000 & LC45. Property Location: Off Shallow Beach Road. Subject to SEQR. The WCPB determined no county impact with the stipulation that all paperwork be filed. NOTE: This application is in conjunction with V06-50. *The public hearing was kept open from the January 2007 meeting pending additional information.*

Dennis Dickinson, representing Richard and Vivian Simonson said that they have filled out and submitted the SEQR long form as requested by the PB at the last meeting. Atty. Melissa Lescault, representing Richard and Vivian Simonson, gave an overview and said that (1) the APA has stated that this project is non-jurisdictional, (2) there is no draining of any wetlands to be done, there is no dredging or excavation of a wetland on this project, there are no structures being constructed in a wetland or creation of any impervious surfaces in a wetland on this project, and there is no filling or dumping in the wetland, (3) the project site is a flat area, so there would be no increase of velocity of stormwater, (4) the project has met all of the design requirements of the PB other than the setback variance they seek from the ZBA, (5) there will be no pollution added to the wetland, (6) the single-family dwelling has also met all of the dimensional requirements of the LC45 zone, (7) this project will be consistent with the aesthetics of the neighborhood, (8) the area is accessible by emergency vehicles, (9) they are seeking a positive recommendation to the ZBA for the requested variance and (10) there is no rationale for the zoning setback requirement.

Dennis Dickinson said that (1) the specific device they are asking for are infiltration or "eave" trenches and (2) there are two limiting distances they are looking for: (a) 100 feet from the edge of the well and (b) the bottom of the infiltration trench is supposed to be 2 feet above the groundwater, which they have.

From the public, Lynn Gollhoffer asked if the 3 foot depth of the stormwater control would be in conflict with the 2 foot water table and said (1) that although it is very level, there is tremendous flooding down there, so she would like to know if the stormwater management would take care of all of the flooding, (2) she would like to know exactly where the setback from the right-of-way is, and (3) she questions where the lines for the septic are going, because digging for the septic line would affect the wetland. Dennis Dickinson said that they are not digging in the wetlands for the waterline or the septic--they are not digging in the wetlands at all.

From the public, Meredith McComb said that (1) she has had concerns about the project and the confusion of the wetlands so she called the APA and got the map they reviewed when they made the non-jurisdictional determination, which is different than an approval of a

project, (2) she talked with Brian Grisi and Mark Rooks who did the flagging and indicated that the wetland boundaries shown reflect only those flagged in the field and determined necessary for review of the project--additional wetlands may exist that have not been flagged, (4) she is concerned about the wetlands directly across the road from the house site which are within 100 feet, which are probably within 100 feet of stormwater retention ponds on it, (5) on the flagged wetlands there is a building site flagged with the limits of the wetlands and the leach field site, but the APA was not asked to assess whether between the house site and the leach field were wetlands, because they assumed in spite of the map they were given which shows the septic pipe clearly intersecting the flagged wetland marker—the APA assumed the septic would be run along the road, so that is not wetlands, but the lane that is there is not the full 20 foot width of the right-of-way, (5) she said that if the right-of-way is 20 feet and there are plans to build the lines up the road, she doesn't see how vehicles will be able to navigate the road, (6) she questions the results of the test pits at the house site, because a lot of the efficacy of the stormwater there is dependent on what the percolation of the soils are, (7) the APA is very clear that it is non jurisdictional if they are not building on top of the wetlands—it is not their problem and (8) the APA representative also made it very clear that the Town of Bolton is free to enforce its own setbacks.

Meredith McComb asked if P. Kenyon made a determination that the lake and the wetlands are the same and P. Kenyon said that (1) she has not made that determination, (2) the appeal to the ZBA is by an aggrieved landowner that disagrees with the ruling that setback requirement is not needed from a wetland for the house and (3) she never said that the lake and the wetlands are the same.

Meredith McComb said that (1) the history on this project has been so long and so well-established—she has sat on the Bolton PB in the past and turned down two other proposals to build on this property and (2) she would encourage the PB to say that it is still fragile land zoned LC45 (the permitted use in the district is for a hunting camp of under 500 square feet) and to not parse words in that maybe it could work--other people were told no and she thinks this applicant should be told no also.

From the public, Jim Sponskowski, neighboring property owner, asked what the setback is from the house to the wetland and Dennis Dickinson said that it is a 50-foot setback from the property line and the right-of-way is about 30 feet. Jim Sponskowski asked if the applicant would be going from the westerly property line through the easement then through the right-of-way then to the house and Dennis Dickinson said yes. Jim Sponskowski said that the numbers don't add up. P. Kenyon said that (1) she researched the deed with the Town Assessor Dave Rosebrook and it talks of the right-of-way being on the westerly side of the westerly property line and (2) if what she is reading in that deed is correct, then the applicant is meeting the distance required. Jim Sponskowski asked if P. Kenyon is saying that the right-of-way is on the westerly side of the property line, meaning that the right-of-way would not be on the applicants' property and P. Kenyon said that as she reads the deed, that is correct. Jim Sponskowski asked if a right-of-way that was established and used for over 50 years would be considered the right-of way. Counsel said that (1) yes it would, (2) if the deed description that a right-of-way exists by deed and it is west of the westerly boundary line, then it would mean that the line is off the property, (3) if the acquired right-of-way has

been established, it would also be a right-of-way just by prescriptive use and (4) they appear to have a situation where they have a deed description of a right-of-way and the apparent right-of-way—they are not on the same spot, so that is an issue.

Jim Sponskowski said that (1) it all boils down to the original 95-page APA report versus the new 4-page report, (2) the only change is that the new report gives a ruling of non-jurisdictional review with no explanation or comments, (3) he asks the PB to not approve this project and (4) to his knowledge, there were at least two or three other projects that were denied--and the Simonsons were against those projects.

From the public, Mike Elliott, neighboring property owner, said that the deed in question is his deed and it is the westerly side of the western boundary of the marshland to the shore of Lake George, which is the west side of the marshland which would be the right side of the driveway going towards the lake--there is no mention of the property line, it states the "marshland".

From the public, Chris Navitsky, Lake George Waterkeeper, said that (1) the separation is important, because there is no way you will remove all pollutants in a 2-foot separation, which is why you have a horizontal separation that is required, because most pollutants and nutrients are taken away by soil particles and (2) there has been talk about filling the wetlands over the years and he was given 2 photos from November 2005 showing filling in that has gone on in that area.

Jim Sponskowski said that the description of the right-of-way in Mike Elliott's deed is different from the description of the right-of-way for 26 Shallow Beach Road—there may be 11 different right-of-ways—so the Zoning Office should research this.

Lynn Gollhoffer said that (1) Frank Panella, whose property would be right next to the proposed development, is having a survey completed which will be checked with the deeds to determine exactly where the right-of-ways are and (2) asked if there was any information on the animal habitats that will be disrupted by this project. J. Gaddy said that on the environmental impact statement included was a list of the endangered, threatened and special concern fish and wildlife species of New York State, which omitted plants, and the great blue herring was not on that list and while there were two types of turtles that might possibly fall into one of those categories, he has no evidence of that. Lynn Gollhoffer said that the lake does go into an outlet in the back extremely close to the property that would be disturbed—it is not just a wetland.

Jim Sponskowski (1) said that the proposed drainage ditch is for the water coming off the house and (2) questioned what will be used for the water coming off the fill and other property development--to say it will have no effect on the property is an inaccurate statement.

Correspondence read into the record in its entirety by Counsel:

- Letter from Kathy Bozony of the LGA dated 01/16/07 - opposed.

Dennis Dickinson said (1) the two feet is critical--there is no driving force to bring the water out 25 feet, (2) once they are in the water table there is no driving force of water to the lake, so there is no driving potential for the water to go anywhere very fast and (3) what they are doing with stormwater is collecting that rainwater that is in some way polluted and the basin collects the rest of the water from the driveway--the rest of the water is good to go, so the water that is on the bank 25 feet from the wetlands is "God's water" and can go anywhere it wants .

Counsel said that (1) if this public hearing is exhausted, his recommendation is that the PB not close this public hearing because the applicant does have a variance application before the ZBA, which then springs back to the PB in that the ZBA has asked for a PB recommendation with respect to the application for the variance so they can deal with it, (2) the ZBA does need to deal with the variance, because the PB cannot act upon a site plan review until (as stated in Section 200-31), that it first complies with all of the regulations within the district of where the project is proposed to be located and of course it would not comply until the area variance is handled, which would require a favorable vote from the ZBA, (3) the site plan cannot be culminated tonight and (4) he recommends the PB not close the public hearing because he doesn't know how long the ZBA will take even if the PB is capable of making a recommendation tonight—once the PB closes the public hearing, that puts the PB on a 60-day clock and by default this project could be approved.

Motion by John Gaddy to extend the public hearing on SPR06-43 Vivian & Richard Simonson, until the March 2007 Planning Board meeting pending additional information.
Seconded by John Gaddy. **All in favor. Motion Carried.**

Note: The applicant agreed to have public hearing items 4 & 5 heard together.

4) SD04-16 SADDLEBROOK SUBDIVISION. Rolf Ronning. Seeks to amend previously approved plats (SD03-19 & SD04-05 formerly known as Mowery/High Meadow Farm), specifically to divide into 23 lots that parcel designated as Section 139.00, Block 1, Lot 48.1, Zone RL3. Access to be gained through Section 139.00, Block 1, Lot 28.1(Reed) see SD07-04. Property Location: High Meadow Farm Road. Major Subdivision. Preliminary plat. Subject to SEQR. *Note: This application is in conjunction with SPR05-11 and was tabled at the January 2007 meeting pending additional information and a public hearing*

Rolf Ronning said that (1) three years ago the PB gave him approval for a minor subdivision for the house and a number of acres, (2) he is under contract to close on March 15, 2007 and (3) if this item is again adjourned, he will be asking for reconfiguration of Lot 3. H. Koster asked if the change was made on the application for the configuration of Lot 3 and P. Kenyon said that she believes the maps the PB have, show the reconfiguration of Lot 3. H. Koster said that the maps are under a different configuration than the maps they have and Rolf Ronning said yes, the shape of the lots from the maps of two years ago are different, but the maps the PB has now and the ones being presented should be the same.

Dennis Dickinson gave an overview and said that (1) Rolf Ronning purchased the property known as High Meadow Farm, which they are seeking to subdivide it into 23 residential lots, (2) they have surveyed the property, had it flown for topography, done a multitude of test pits, and have retained an approval from the Town Engineer for the stormwater plan, (3) they have made two recent changes as shown in today's application: (a) they have laid out 10.16 acres across the wetland from their access—they would like a boundary line adjustment to adjoin the 10.16 acres with the 12.7 acres and (b) they struck a deal with Bill Reed on New Vermont Road entailing a boundary line adjustment to access the two lots on New Vermont Road and (4) they have included a fire pond with road access in their plan. H. Koster asked what the map referenced is labeled as and Dennis Dickinson said "S-0".

From the public, Chris Navitsky, Lake George Waterkeeper, handed out a marked up map and said that (1) while the plan received the Town Engineer's approval, the plan as proposed does not meet the requirements of the stormwater management ordinance and will have impacts to water quality, (2) the tributary to Pond 3 on New Vermont Road is a concern, because the applicants would be collecting run off and discharge it across the adjoining person's property—an easement or right-of-way may be needed, (3) Pond 4 is not routed to the primary stormwater basins, but routed away from that so it will not get the full treatment, (4) Pond 6 is shown as going to the two drainage areas labeled 2BR3AR which is incorrect—they actually follow the road by the swales that were put in, so again, the report that has been approved is in error, (5) the applicants are not taking the most conservative approach as is supposed to be done in the Indian Brook Watershed, (6) this is another subdivision that was approved without any test pits being done in the stormwater management areas—that is required by the ordinance, (7) Pond 5 by the wetlands would be down 13 feet as the base, Pond 6 would be 12 feet deep and Pond 7 would be 10 feet deep—which impacts pollutant removal and would be impacted by groundwater, (8) he has concern with the pond sizes--if the ponds were located closer to the road there would be less impact, (9) the pond to be above Pond 6 will flood Pond 6, has not been addressed in the stormwater report and will also wash out the road, (10) stormwater management is a regulated activity, which in the Adirondack Park needs a permit from the APA, (11) half of the perc. tests on the drawing are less than three minutes per inch, which is less than what is required, (12) the new Phase II APA permit requires that no more than 5 acres be disturbed at one time and (13) he doesn't think the project is ready to be approved at this time.

Dennis Dickinson, surveyor/engineer for the project, said that (1) the stormwater plan was done by David Myers (2) the actual road construction area referenced as collecting all the water from the building they propose northerly there is no development--you don't need stormwater where there is no development, (3) they have a very conservative stormwater plan, (4) they are discharging the water at or less than pre-development rates, (5) the drainage thing Chris Navitsky referenced currently exists--they are going to put the water that is going there now back in there at or less volume because of their stormwater facility, (6) there is a drainage pattern that goes off their property which exists now and will exist after they develop, (7) they have a tremendous amount of test pits on the maps and have done quite a few perc. tests, (8) some of the ponds have four bays and he has made some changes to resolve that, but has yet to talk to Tom Nace about that revision—it's a good idea that he will proceed with, (9) the natural drainage way is not a stream—it is a swale which if it doesn't

reach a certain volume it is a drainage pattern--not a stream, (10) they tested the rain calculation on the wetland pre-development to make sure the rain to make sure it wasn't discharging more than it was pre-development, which is what the calculations are, (11) they are not using the wetlands for treatment of the water, (12) he has moved the septic systems in questions near Indian Brook, (12) there is a structure and sequence in the stormwater report--it is required and (13) the size of the ponds are dictated by the project.

Rolf Ronning said that (1) regarding the construction schedule of building the approximate 6,000 foot road, the road at Saddlebrook will require doing things in logical stages--they will not be disturbing everything at once and (2) they have been very conservative and cautious of seeding and using all proper procedures for erosion control. Don Kingsley said that (1) his company is going to be building the road, (2) the way they normally work on a job like this is they try not to disturb any more ground than necessary at any one time—common sense says you don't want to make a mess, (3) the way they go about this job is that where the barn used to be is where they propose to start the project—just before that is a large settling basin and that basin will be constructed initially and as the plans are drawn it's constructed one foot shy of finished grade—the reason for that is to let any sediment going to there while that section of job is underway and when that section is toward completion they go back, take that last foot out and finish that basin to completion, (4) when they finish the slope it gets graded and seeded immediately—if not the day they finish it, then the very next day and (5) they will clear the trees first then stump the job—he doesn't know if they will clear the whole thing at once, they may not, they may only do a certain section at a time, get it cleared, get it stumped and somewhat stabilize the construction road so they can have access through the property and work their way through the job.

Correspondence: Letter from the Lake George Waterkeeper, who said he addressed his issues at the podium when he spoke, so there is no need to read the letter into the record.

- 5) SPR05-11 SADDLEBROOK SUBDIVISION. Rolf Ronning.** In accordance with Section 125.13C1 of the stormwater regulations, seeks Type II Site Plan Review for a major project, specifically to remove more than 15,000 sq ft of vegetation. 30 acres proposed: total build out is 30 acres, road alone is 12 acres. Section 139.00, Block 1, Lot 28.1, 36.1 & 48.1, Zone RL3. Property location: High Meadow Farm Road. The WCPB determined no county impact with the condition each individual lot be reviewed for stormwater and erosion control measures, lot clearing and lot access. Subject to SEQR. *Note: This application is in conjunction with SD04-16 and was tabled at the January 2007 meeting pending additional information and a public hearing .*

Motion by Donald Roessler to extend the public hearing on SD04-16 & SPR05-11 until the March 2007 Planning Board meeting pending additional information. **Seconded by** Sue Wilson. **All in favor. Motion Carried.**

Note: The applicants agreed to have public hearing items 6 & 7 heard together.

- 6) **SD05-25 McGURL, THOMAS & MARYLOU.** Represented by Attys. Jonathan Lapper & Stefanie DiLallo Bitter of Barlett, Pontiff, Stewart & Rhodes, PC, and Tom Hutchins P.E. of Hutchins Engineering. Seek to divide into 8 lots that parcel designated as 170.00-1-22.1. Zones RCL3, LC45 & LC25. Property Location: 520 Trout Lake Rd., known as Twin Pines Resort. Preliminary Plat. Major Subdivision. Subject to SEQR. *Note: This item is in conjunction with SPR06-52 and was tabled at the January 2007 meeting pending additional information and a public hearing.*

Atty. Jonathan Lapper, representing Thomas and Marylou McGurl, said that (1) they addressed all of the PB's concerns from the last meeting, (2) they have an APA non-jurisdictional letter, (3) they have received sign-off from Town Engineer Tom Nace on the stormwater and (4) regarding the LGA's position that this is segmentation and they will come back later to re-subdivide the resort property, this project proposes much fewer dwelling units than currently exist, it is a much smaller scale than the original proposal, they are not subdividing the lake parcel, and the McGurls decided that a good way to get their value out of the project is to sell the seven building lots and to retain the resort in a modified smaller format that they can run as they get older and some day sell—this is certainly not an attempt to subdivide part now and come back and subdivide part later—he is put off that is the LGA's position.

From the public, Chet Burrell, neighboring property owner, said that (1) they have followed this project closely, (2) they are not opposed to development, but they have concerns. They want to see development done in accordance with all the requirements, the codes, and the Comprehensive Master Plan, (3) as a resident for over 60 years on the lake, the lake and environment around it means a lot to them, (4) they see the PB and ZBA as representing the public in seeing that a balance is made between what a developer wants to do and the preservation of the environment, (5) the proposed road would go through an existing uninterrupted forest--they would like to ask that it be looked at, (6) the footprint of the project is still very big on great slopes, (7) they are concerned that as the project has changed there has been some retention of the cabin units. They would like to know the specifics and accuracy of the proposed number of cabins, (8) in the upland development of the back lots and the carving off of what has been shown as Lot 1, they want a condition of approval that there not be a subsequent dividing of that lot so they don't wind up with the future development that segmentation leads to, (9) the access to the lakefront remains unclear, (10) if there is to be an easement, has it been reviewed, (11) regarding the slope information, based on what they have seen in the public filings, there is missing information as to slopes that may exceed the requirements and (12) he asks that his concerns and the concerns addressed in his letter and the letter from Caffry & Flower be addressed before this project would proceed to final approval.

From the public, Glen Mosebach of 45 Rainbow Drive, asked (1) if there is a better solution to this project, such as a cluster development and (2) if the PB will guarantee, that Lot 1 would remain undeveloped forever.

From the public, Mark Roden, said that (1) many seasonal homeowners have become year-round homeowners, (2) he is upset by the conflict between neighbors, (3) this development

has been scaled back, tried to be as least intrusive as possible, surveys have been done and a lot of work has been done on this project, (4) it is important to remember that this is the McGurls' property, (5) the worth of the property has outdistanced what you can earn by working the property as far as cabin colonies are concerned, (6) cabin colonies are a thing of the past as the new tourism is for people to come in, build homes and become year-round residents, (7) he knows a lot of people on the lake, change is inevitable, the McGurls have a right to do what they want to their property. They have worked hard on this project (8) it makes him sad that his neighbors will have hard feelings resulting from this project and (9) the McGurls are a part of this community now and this is what they want to do with their property.

From the public, Chris Navitsky, Lake George Waterkeeper, said that (1) he has some concerns with this stormwater and treatment proposed on the project, (2) the applicants are looking at providing 100-foot buffer on the stream and have scaled back on some lots, (3) he would like to see the applicants use open-grass swales, (4) regarding the runoff from the roads, he would like to see the applicants be more conservative, (5) he questions whether the areas cleared for the basins are incorporated into the disturbance calculations, (6) he is wondering how the additional run off volume is actually being mitigated, (7) there is no information as to how stormwater will be handled in cold weather conditions, as is required by the ordinance, (8) a stormwater basin is proposed in rock 13 feet deep on one side, so there should be consideration on how that will actually be constructed, (9) regarding wastewater, a couple of the systems are proposed on slopes greater than 20%, which he thinks is against NYSDOH codes. You are not allowed to alter any slopes over 20% to put in wastewater, (10) there are also some slopes shown that are greater than 10% which is against Town of Bolton code, and (11) he would like to know if there is any contact with the NYSDEC regarding construction over a stream.

From the public, Meredith McComb said that (1) even though she agrees that building houses is the new tourism in this area in some sense, in the Comprehensive Plan, it makes a big pitch for cabin colonies, (2) Section 200-43 deals with the concern of further development of Lot 1 and (3) her concern is that there was a one-acre lot subdivided from this parcel that did use density transfer from the excess plan provided to make a substandard lot in LC25 and that lot's existence should be considered in the density of this project even though it is not part of this project now.

Correspondence read into the record by Counsel in its entirety:

- Letter from Michael S. Zamore, dated 02/12/07 - opposed.
- Letter from Kathy Bozony of the LGA - concerns.

Atty. Lapper said that (1) he is happy the neighbors have stated on record that the project has been scaled down, (2) the maximum slope of the proposed road is 11.4%, (3) regarding run off coefficients, they have been working with Town Engineer Tom Nace and he is satisfied, (4) they are keeping some of the cottage colony as reflected in the Comprehensive Plan, (5) the one-acre lot referenced by Meredith McComb has been reviewed by the APA in their non-jurisdictional determination and it was all appropriate and approved at that time, (6) they

think this is a sensitive project in terms of what could be there, (7) he doesn't know where Kathy Bozony is coming from regarding density as map S-1 shows how much land is in each zone and how many building rights are permitted—that is not something that is in question and it hasn't been questioned, P. Kenyon has determined it is correct—there is no gray area there, (8) he thinks Kathy Bozony needs to study the Bolton Code a little bit more and he hopes she gets that comment from him, because we shouldn't be reading comments like that, (9) in terms of the slopes greater than 15%, that doesn't go by the developed area, that is based upon the project and that number is correct and (10) they stand behind this project and think this is a sensitive project to what is there and certainly less intense than it could be.

Tom Hutchins, Project Engineer, said that (1) the logic for the road is slope driven, (2) there are two lots, Lot 2 & Lot 3, where the topography is steep and they found areas under 15% which is acceptable for the type of wastewater system they propose, (3) he will go back to see if he could use open channels instead of piping, (4) the clearing areas for the basins are included in the disturbed area and (5) these are not fill systems for Bolton Wastewater Code because none of these are over 2 feet, so they are considered shallow trenches on the slope.

Counsel asked what the applicant is expected to do--what the PB wants and H. Koster said that they are looking for some stormwater changes. Atty. Lapper said that (1) it is a very small issue of replacing pipes with open channels in a small area and (2) he was hoping to have the public hearing closed at this time.

H. Koster said that the applicant is still vague as to the lakefront and lake access and Atty. Lapper replied by saying that (1) they have shown on this map a specific easement that the seven home owners are going to be able to use and the rest will be for the residents of the resort and (2) the resort will use the part in front of the lodge building. Matt Steves said that (1) the area of the HOA access is depicted as 235 feet, which is required for the number of lots that will be using it (2) the current utilization for the lodge is in front of the existing main building on Lot 1. H. Koster asked if the lodge guests will be accessing the lake at parts deemed wetlands and Matt Steves said that the current access is not wetlands. H. Koster asked if there are metes and bounds on the designated L-shaped piece and Matt Steves said yes. Tom McGurl Jr. said that (1) there are no additional changes being made to Lot 1--it will remain as it has for 60 years, (2) there is a huge area of wetland they have set aside that will not be touched and couldn't be touched even if they wanted to and (3) the landowners and the guests will be using the non-wetland area (between the two wetland stakes put in by Mary O'Dell of the APA) for their lake access as they have for 60 years. H. Koster asked who would own the piece of land to the west and D. Roessler asked if there are three separate lots on the lake. Atty. Lapper said (1) no, it is merely an easement area and (2) the metes and bounds (L-shaped lot) on the left side is the full extent of what the seven single-family lot owners have a right to use. H. Koster said (1) that is the distance allowed for the homeowners and (2) now they are adding the resort to the same footage. Atty. Lapper said that the resort has its own lake frontage and H. Koster said that is not what Tom McGurl Jr. just said—he said that the resort and the lot owners were going to use the same area in between the two wetland stakes. Tom McGurl Jr. asked if H. Koster is asking about using waterfront (actual access into the lake) or to using a piece of property. H. Koster said that the applicant has the minimum access to the lake with the 225 feet for the proposed lots and is

then adding the resort to it, so there is not enough footage along the usable lakefront. Atty. Lapper said that (1) the confusion is that it doesn't go by usable lake frontage—the contractual access talks about how many feet of shoreline you have, (2) they have shown an area of shoreline that will comply with contractual access for the HOA and there is plenty of shoreline for the resort, even though some of it is wetland, there is plenty of shoreline just to comply with that code provision and most of that will be upland use—that is part of the resort, it has always been part of the resort and that is not going to change. H. Koster asked if the applicant got a clarification of that from ENCON and Atty. Lapper said that would be the Bolton Contractual Access Provision. P. Kenyon said she will review it, but she believes the applicant has what is needed.

H. Koster said that there are unanswered questions among the PB members. P. Kenyon asked if the concern is about what the applicants have for shore frontage and wetlands and H. Koster said yes, ENCON's interpretation of access to the lake. Counsel said that (1) Atty. Lapper is correct in that Contractual Access is defined by the Bolton Code and (2) creation of the seven contractual access points require a certain amount of specific linear feet per lot—you have the base figure then you add your units and 235 feet is enough. P. Kenyon said it is 175 feet for the first lot and 10 additional feet for each lot thereafter. H. Koster said that it doesn't include the resort. Atty. Lapper said that Lot 1 (the resort) is the dominant owner of the shoreline and Counsel said that all the other users have access over Lot 1, so the base figure belongs to Lot 1. H. Koster asked if the taxpayer would remain Lot 1 and Atty. Lapper said yes, the HOA would not own it--they would pay maintenance fees and be able to use it. P. Kenyon said that (1) for the resort itself, it would be enough and (2) she would re-review it for next month. H. Koster said that these are issues they usually address in the regular meeting--he didn't want to get into it during the public hearing.

Counsel noted that it is fine for the PB to table the public hearing, but it is important to let the applicant know what he is expected to come back with and H. Koster said that would be addressed in the regular meeting.

7) **SPR06-52 McGURL, THOMAS & MARYLOU.** Represented by Atty. Jonathon Lapper of Bartlett, Pontiff, Stewart & Rhodes, PC, and Tom Hutchins P.E. of Hutchins Engineering. In accordance with Section 125.13C1 of the stormwater regulations, seek Type II Site Plan Review for a major project to remove more than 15,000 sq. ft. of vegetation. 6.95 acres is proposed. Section 170.00, Block 1, Lot 22.1, Zones RCL3, LC45 & LC25. Property Location: 520 Trout Lake Road known as Twin Pines Resort. Subject to WCPB review. Subject to SEQ. *Note: this item is in conjunction SD05-25. This item was tabled at the January 2007 meeting pending additional information and a public hearing*

Motion by Donald Roessler to extend the public hearing on SD05-25 & SPR06-52 until the March 2007 Planning Board meeting pending additional information. **Seconded** by John Gaddy. **All in favor. Motion Carried.**

REGULAR MEETING:

H. Koster opened the regular meeting 8:45 pm saying that several PB members didn't have time to review the January 25, 2007 minutes, so they will be addressed at the March 2007 meeting.

H. Koster noted again that there were two PB members absent, so applicants would need a favorable vote from all four members present for the application to be approved, therefore the option to postpone agenda items was available to all applicants.

Items 1 & 2 were heard together.

- 1) **SD04-08 BRANDOW, EDWARD. Trout Lake West.** Represented by Rolf Ronning. Seeks to divide into 5 lots that parcel designated as Section 185.00. Block 1, Lot 31, Zone RCL3. Property Location: Trout Lake Road. Major Subdivision. Preliminary Plat. Subject to SEQR. *Note: The public hearing was kept open from the January 2007 meeting pending additional information. To date an agreement has not been reached between Julie Denison and Dr. Brandow and Town Engineer Tom Nace is re-reviewing the stormwater plan Rolf Ronning said that this matter is still unresolved and they should be ready to proceed next month.*

- 2) **SPR06-21 BRANDOW, EDWARD. Trout Lake West.** Represented by 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. 35,750 sq. ft. is proposed. Section 185.00. Block 1, Lot 31, Zone RCL3. Property Location: Trout Lake Road. *Note: The public hearing was kept open from the January 2007 meeting pending additional information. To date an agreement has not been reached between Julie Denison and Dr. Brandow and Town Engineer Tom Nace is re-reviewing the stormwater plans.*

Rolf Ronning said that this matter is still unresolved and they should be ready to proceed next month.

Motion by Donald Roessler to keep the public hearing open and table the applications pending an agreement between Julie Denison and Dr. Brandow. **Seconded by** Sue Wilson. **All in favor. Motion Carried.**

- 3) **SPR06-43 SIMONSON, RICHARD & VIVIAN.** Represented by Atty Melissa Lescault of McPhillips, Fitzgerald & Cullum LLP & D.L. Dickinson Associates. For the construction of a proposed single-family dwelling, seek 1) Type II Site Plan Review for a) a single-family dwelling in the LC45 zone; and b) a major stormwater project to remove more than 15,000 sq. ft. of vegetation; Approximately 15,000 is proposed. 2) Type I Site Plan Review is also sought for development within 100' of a wetland. Section 186.18, Block 1, Lot 31, Zones RCH5000 & LC45. Property Location: Off Shallow Beach Road. Subject to SEQR. The WCPB determined no county impact with the stipulation that all paperwork be filed. NOTE: This application is in conjunction with

V06-50. *The public hearing was kept open from the January 2007 meeting pending additional information.*

D. Roessler asked how close they are to the wetlands and Dennis Dickinson said 25 feet. H. Koster (1) said that there are many concerns with this project and (2) asked if the contention is correct in that there was a drainage pipe that was removed by the applicants which re-directed drainage. Dennis Dickinson said that (1) the pipe was further up the road, wasn't functioning and was taken out and (2) it is a flat area—water is draining on both sides of the road. H. Koster said that there is also concern with the closeness of the stormwater management to the wetlands and Dennis Dickinson said that (1) the Town Engineer has reviewed the project and they have his blessing, (2) he finds it interesting that they discuss stormwater in detail for a great length of time and all the neighbors come in with what the applicants should do with their stormwater, but he wonders what the neighbors do with their own stormwater and (3) if the neighbors are really that concerned with the environment, they can easily do stormwater management on their own homes which would in turn help this project.

H. Koster said that the applicants are also looking for a recommendation to the ZBA and Dennis Dickinson agreed. Counsel said that (1) procedurally the applicants need the variance from the ZBA before they can come back before the PB for approval, (2) the question is if the PB is in the position to make a recommendation at this point and (3) the ZBA didn't want to box the PB in and hand them a plan by granting a variance. J. Gaddy said that his concern is that it is too close to the wetland and D. Roessler agreed. S. Wilson said that she doesn't feel comfortable making a favorable recommendation to the ZBA.

Dennis Dickinson asked if the PB is looking at 30 feet instead of 25 or 100 feet and J. Gaddy said that (1) he would be looking for the 100 feet, (2) while it is here say, he finds it interesting that the Simonsons were against previous applications for development in this area and (3) in looking at the availability of other property on this same parcel would let him feel as though the applicants can still develop it without the long pumping of the septic. Dennis Dickinson said that (1) he believes at the last meeting he demonstrated that the applicants only had two potential building sites and this one they chose is much better than the other, (2) there are no other areas other than these two for the applicants to build, (3) some of the neighboring houses are very close to the wetlands, (4) they have agreed to do quite extensive stormwater to safeguard against the PB's concerns, (5) they have increased the cost to do this project and (6) they have mitigated everything the best they can.

D. Roessler said that he has concerns with the exact location of the right-of-way and the neighbors use of it. Dennis Dickinson replied by saying that (1) the problem with this property is that at some point in time rights were waved and privileges were granted without proper description to a lot of people and (2) it has never been litigated to resolve those issues. D. Roessler asked how close the proposed house is to the edge of that road and Dennis Dickinson said that (1) he estimates about 30 feet to the driving surface and (2) if there is a right-of way there then they need 50 feet, but it is the determination of Bolton Zoning Administrator Pam Kenyon that the right-of-way is outside of their property. P. Kenyon said she will review more deeds. Dennis Dickinson said that (1) there are as wet wetlands west of

their property line as there are on their property, (2) if the applicants didn't mow it they would be jurisdictional wetlands if they aren't already and (3) he would like to have the application tabled until there is a larger quorum of the PB.

Motion by Donald Roessler to keep the public hearing open and table the application pending additional information and Zoning Administrator's further review of the deeds. **Seconded by** John Gaddy. **All in favor. Motion Carried.**

Note: Rolf Ronning agreed to have agenda items 4, 5, 6 & 7 heard together.

4) SD04-16 SADDLEBROOK SUBDIVISION. Rolf Ronning. Seeks to amend previously approved plats (SD03-19 & SD04-05 formerly known as Mowery/High Meadow Farm), specifically to divide into 23 lots that parcel designated as Section 139.00, Block 1, Lot 48.1, Zone RL3. Access to be gained through Section 139.00, Block 1, Lot 28.1(Reed) see SD07-04. Property Location: High Meadow Farm Road. Major Subdivision. Preliminary plat. Subject to SEQR. *Note: This application is in conjunction with SPR05-11 and was tabled at the January 2007 meeting pending additional information and a public hearing.*

Rolf Ronning said that (1) this has been on the agenda for about three years—his intention is to make this the nicest subdivision in the Town of Bolton, (2) Town Engineer Tom Nace has approved the stormwater, (3) good points have been brought up about the intakes and outputs of the stormwater basins, (4) they have worked hard to have the APA and the Bolton PB approve this, (5) he thinks they have complied with every single request that has been made and they have done everything the PB's way, (6) he is aware there are only four PB members present, it is a hard decision for him, but he is looking for approvals, (7) he is looking for approvals for the lot line adjustments with Mike Leone and Billy Reed, (8) there will be a bond for the road if he does get approvals, (9) he is proposing the \$150K put up for the road be rolled over for the bond for the construction of the Saddlebrook Road--his intention is to pay for the construction of the entire road, even if the Town of Bolton does take it over.

D. Roessler asked if there has been any stormwater done for the access from the Reed property and Rolf Ronning said that (1) part of his idea is that the lot below Bill Reed's is a beautiful lot with nice soils which could be used as a Town of Bolton cemetery and (2) he would be happy to delay the construction of the road until everybody is happy with whatever stormwater they want from the 50-foot right-of-way from Reed's down to those two lots. Dennis Dickinson referenced the map to show the agreement between the applicants and Bill Reed and said that Bill Reed has agreed to give them the right-of-way shown with metes and bounds on it.

D. Roessler asked for the road length and grade. Dennis Dickinson said that (1) the road is 443 feet long, (2) the grade comes off the road at 2.3% and then it drops to 11% and the lower portion is 14% and (3) once you get to the bottom of the road it flattens out. H. Koster asked if the applicant will provide the disturbance on the road and Dennis Dickinson said yes.

H. Koster said that (1) there is PB concern on the amount of disturbance for Lots 16 and 17 to get where the applicants want to get to and (2) if the applicant would combine Lots 16 and 17 into one lot it would eliminate an awful lot of disturbance and be a great thing. J. Gaddy said that (1) he walked the property last week and where the road crosses Lot 15, there seems to be a spot that would be an easier way to move, because on the base of Lots 15 and 16 there is a wet area the road is really close to, (2) the permanent stream shown coming out of Lot 23 and going to Lot 11's treatment area then the wetland is showing if the pink flagged area is a natural roadway, that is a natural swale that leads to the wet area where that permanent stream starts from and (3) he thinks the main road should be moved more to the northwest. Dennis Dickinson said that the reason they didn't move it further to the left as suggested is because of the slope. J. Gaddy said that (1) if the center line of the road is shown as the yellow line it is going to be impacted, (2) the roadway that goes up through Lots 16 and 17 according to the applicant's drainage plan, would be coming right down into that stream and (3) he is scared in the applicant looking to have the Town of Bolton take over the road because it is the head of Indian Brook and a very sensitive area there. Dennis Dickinson said that they have done the stormwater plan to mitigate the impact of the development. Rolf Ronning said that the reason the road is shaped like this is to minimize cutting and filling—they are following the edge of the slope. H. Koster said that he understands, but for the applicant to gain one extra lot, he is disturbing so much property. J. Gaddy said (1) 875 feet of that driveway goes across Lots 16 and 17 and (2) there are no test pits or exploratory excavation done on the top of that spot, so he is not sure that there isn't rock in the location of Lot 16. Dennis Dickinson said that (1) they changed it from a road to a driveway and (2) they have included all of this in stormwater--every single driveway is included in stormwater. Rolf Ronning said that (1) if the PB would like to make it a condition of approval on Lots 16 & 17, he would ask Dennis Dickinson to do a specific stormwater plan on the shared driveway for Lots 16 & 17 and have Town Engineer Tom Nace approve it before they build any part of that driveway. Dennis Dickinson said that they have done test pits on the lot that are convenient to the house location for septic. J. Gaddy said that another concern of his, which has also been brought up by the Town of Bolton Highway Superintendent, is that with the level of disturbance with the main road as well as the additional driveways that are needed, there is a tremendous potential for flooding here.

Correspondence read into its entirety into the record by J. Gaddy:

- Letter from Town of Bolton Highway Superintendent Tim Coon - opposed.

J. Gaddy said that (1) he knows there is to be no additional discharge of water off the property than what was being discharged prior to the development and (2) he can't believe that this level of disturbance will not increase the effects of the water down below, (3) the movement of the water into a retention basin before it gets to the wetland leads to an increase in the temperature of water as it goes down and one of the big concerns about temperatures in water is what it does to the wildlife. Dennis Dickinson said (1) he is really disappointed to have somebody of J. Gaddy's background to say that to him in a public forum and (2) the purpose of all stormwater management is to stop pollution of stormwater and flooding. Rolf Ronning said that (1) he bought this property to subdivide it, (2) he knew he'd have to spend a lot of money for stormwater, (3) they have done everything the professionals have

recommended (APA, Town Engineer, PB, etc.) and (4) they won't build the driveway to Lots 16 and 17 until the Town Engineer signs off on it based upon the PB's concerns.

J. Gaddy said that (1) the subdivision brought before the PB for Eagle Ridge went through so quickly and one difference was how short the roadways were off the main road to the building sites and (2) for this proposal, there are some significant driveways coming off a road that is 6,100 feet long with pretty steep grades along the way on the main road. Rolf Ronning replied by saying that (1) this is all three-acre zoning and the average lot size is well over five acres—he didn't maximize this, (2) this is beautiful property that is affordable, (3) he would like to give the road to the Town of Bolton and have them take it over, but if the Town chooses not to do so then there will be an HOA where there will be dues and it will be maintained by the owners and (4) he believes these lots will attract year-round families with children which will be good for the town and the school. J. Gaddy said he agrees that adding year-round families to the community is a good idea, but he doesn't necessarily believe this project will do that. Dennis Dickinson said that (1) the eight-acre parcel is pretty flat—it is a pretty straightforward subdivision, (2) they haven't maximized the three-acre zone and (4) he listed all of the PB recommendations that they have done as asked.

S. Wilson asked if in looking at this cumulatively, does the PB need stormwater on the Reed parcel before they could do anything. Counsel said (1) yes, (2) the public hearing has been tabled, and (3) the PB needs to give the applicant a clear understanding of what, if anything, is expected so action can be taken at the next meeting. Rolf Ronning (1) said that he thought the public hearing was tabled, but if approvals were given tonight then the PB could terminate the public hearing and (2) asked if it is accurate that he won't be getting approval on anything tonight. Counsel said (1) that is correct, (2) the PB needs to tell the applicant what, if anything, is required or needs to be changed, so at the next meeting should the PB close the public hearing, in fact the applicant would be ready for a decision and (3) no, the applicant can't get partial approval for a subdivision. Rolf Ronning said that (1) a couple of years ago he got a minor approval to sell the house which is 10.3 acres, it is just a little different shape and (2) it is Lots 3 & 4 that he would like to be able to sell as the house site. Counsel asked if what the applicant is asking for is for a lot in this subdivision and Rolf Ronning said yes. H. Koster said that the lot in question doesn't have the same road access as shown on this map. Rolf Ronning said that the house will remain on its own if the subdivision doesn't go through. P. Kenyon asked if it is still a separate parcel on the tax rolls and Rolf Ronning said yes. D. Roessler asked how many acres it is and Rolf Ronning replied by saying that it is somewhere between 10 and 15 acres. H. Koster asked if it is correct that if the applicant wants to sell it he would need to sell what he has currently then come back to the PB for a lot line adjustment if he wants to split it into Lots 3 & 4, plus take out the stormwater management. Counsel said that (1) he thought it was comprehensively being presented and (2) he can't recommend the PB give final approval on what constitutes a piece of a subdivision. H. Koster said that (1) the applicant could sell what he has now and (2) the applicant would have to reapply afterward. Rolf Ronning said that the problem is that he can't sell it because then he would have to change the subdivision map—if he sells what is approved then this map becomes wrong. Counsel said that (1) it is all a part of the comprehensive puzzle, (2) the inventory is the same subdivision as P. Kenyon has calculated and as it has been presented and (3) he can't imagine the benefit, other than to the applicant,

that he could sell it in its reconfigured state tomorrow—he could also sell it in its current state tomorrow and (4) he highly recommends the PB pins this down comprehensively.

D. Roessler asked what the amount of the bond should be for the road. Counsel said that (1) the PB needs to determine the purpose of the bond—insurance on the road and (2) what they did last time is that the developer put \$150K into an interest bearing account, assuming that the developer gets it all done correctly according to plan, the developer gets all that back including the interest. Rolf Ronning said that (1) this road may cost \$400K and (2) it is unrealistic to get a bond—they can do this thing in stages. Counsel said that he agrees that if it is done in stages, then you can basically put that bond in those parameters and the same amount would be shifted to Phase II and Phase III. Rolf Ronning said that they will work on getting the road done in stages. Counsel said that (1) in principal that can be done, but it is up to the PB to make that decision of terms and (2) it is mandated that the money cannot be returned to the developer until Town Engineer Tom Nace has issued a certificate stating he has reviewed the building of the road, it was built as planned and he signed off—the same thing could be done here, but it could be done in steps. Rolf Ronning said that they could figure out a way to do the road in thirds. H. Koster said that you can't rough cut the whole road in the first stage--it is too big and Rolf Ronning said that the problem is that there is one area where they have excess fill and another area where they have to put in a bunch of fill.

H. Koster said that Don Kinglsey said earlier that he is going to do it in phases and get it all stabilized and seeded before he moves on to the next step. Don Kingsley replied by saying that (1) he did say that, but this road is cut up such that there are cuts and fills, (2) the yardage of material is figured such that it is all self-sufficient on the job—it just needs to be moved around—it is all scheduled to be used on-site, (3) the first stage would be to clear the trees, make sure the silt fence is in and you are stabilized for erosion, then the grubbing and clearing of the stumps but it could also be part of the first phase, then you would get the sub-grades going which would be the end of the first phase (some of the stormwater management for the basins would need to be part of phase one to take care of any run off, within reason). H. Koster said that now they are talking about something totally different than what they heard before—there will be total disturbance of everything here—the whole road would be disturbed. Don Kinglsey said that is the way it needs to be done. H. Koster said that Don Kingsley said earlier that he would be doing it in three phases where he would stabilize it, seed it and complete it before moving onto the next section. Don Kinglsey said that (1) he didn't say something different earlier—he mustn't have elaborated enough on that, (2) the material is on-site and you have certain cuts and fills as you go through the job—as he goes through the job he has to move material on-site and also has to truck material off-site, (3) if you want to cut down any truck traffic on New Vermont Road, the best thing to do is to keep all of the material on-site and (4) if you hold the applicant to sections of the road one third at a time then you will see tremendous amounts of truck traffic on New Vermont Road bringing unnecessary material that is already on the job. J. Gaddy asked where the fill would be coming from and Don Kinglsey said that the cuts and fills there balance out. H. Koster (1) said that he understands that Don Kinglsey is going to cut from one area to fill another and (2) asked if Don Kingsley could segment the job in thirds where they don't have to disturb the complete site all at once. Don Kingsley said that they might be able to, but he didn't look at the job in that respect.

D. Roessler said that (1) there is no sense arguing this point because the applicants need to come back next month and (2) the PB should give the applicant a list of all they are looking for including a proposal on how they would do the work on the road. H. Koster said that in looking at the cross section, areas could be done without bringing fill in or taking fill out without doing a complete area. D. Roessler said that the PB needs to decide how much escrow they want--he doesn't feel \$150K is enough for this project. H. Koster said that it all depends on how much is going to be disturbed which is why he is arguing the point of basically disturbing the whole property and all the PB would be sitting with is \$150K. Rolf Ronning said that they would give the PB a proposal.

D. Roessler asked for the HOA plan in the event the Town of Bolton would not take over the road and Counsel said that (1) there is a stormwater management covenant that is all pre-written and available at the Zoning Office and (2) the PB is requesting a skeletal format of what constitutes deed covenants and HOA requirements. Rolf Ronning agreed.

Dennis Dickinson said that (1) they received a final letter from the APA stating that it is non-jurisdictional—the PB should have this and (2) the sequencing of construction is in the stormwater report. P. Kenyon said that she will review it for next month. Rolf Ronning said that they just want a temporary road because there are thousands of yards that need to be moved from here to there, so it is the logical thing to do that first. H. Koster said that (1) what he is getting at is not on the whole road in the beginning and (2) where the road has cuts and fills that equal itself out, there is no need to go and tear up the whole road.

S. Wilson said the applicant has received the APA non-jurisdictional letter.

Motion by Donald Roessler to keep the public hearing open and table applications SD04-16, SPR05-11, SD06-14 & SD07-04 pending additional information as follows:

Seconded by John Gaddy. **All in favor. Motion Carried.**

5) SPR05-11 SADDLEBROOK SUBDIVISION. Rolf Ronning. In accordance with Section 125.13C1 of the stormwater regulations, seeks Type II Site Plan Review for a major project, specifically to remove more than 15,000 sq ft of vegetation. 30 acres proposed: total build out is 30 acres, road alone is 12 acres. Section 139.00, Block 1, Lot 28.1, 36.1 & 48.1, Zone RL3. Property location: High Meadow Farm Road. The WCPB determined no county impact with the condition each individual lot be reviewed for stormwater and erosion control measures, lot clearing and lot access. Subject to SEQR. *Note: This application is in conjunction with SD04-16 and was tabled at the January 2007 meeting pending additional information and a public hearing.*

Motion by Donald Roessler to keep the public hearing open and table applications SD04-16, SPR05-11, SD06-14 & SD07-04 pending additional information as follows:

Seconded by John Gaddy. **All in favor. Motion Carried.**

6) SD06-14 RONNING, ROLF & LEONE, MICHAEL. Seek lot line adjustment between those parcels designated as Section 139.00, Block 1, Lots 48.1 & 36.1, Zone RL3.

Property Location: New Vermont Road, approximately 2000 ft. north of County Route 11 intersection. Sketch Plan Review. Subject to SEQR. *Note: This application is in conjunction with SD04-16 Saddlebrook Subdivision and was tabled at the January 2007 meeting pending a public hearing on SD04-16 & SPR05-1*

Motion by Donald Roessler to keep the public hearing open and table applications SD04-16, SPR05-11, SD06-14 & SD07-04 pending additional information as follows:

Seconded by John Gaddy. **All in favor. Motion Carried.**

7) SD07-04 RONNING, ROLF & REED, WILLIAM. Seek lot line adjustment between those parcels designated as 139.00, Block 1, Lots 28.1 & 48.1, Zone RL3. Property Location: 252 New Vermont Road. Sketch Plan Review. Subject to SEQR. *Note: This application is in conjunction with SD04-16, Saddlebrook Subdivision.*

Motion by Donald Roessler to keep the public hearing open and table applications SD04-16, SPR05-11, SD06-14 & SD07-04 pending additional information as follows:

- 1) A major stormwater plan for the access road located on the Reed parcel, to be reviewed and approved by Town Engineer, Tom Nace.
- 2) A major stormwater plan and area of disturbance for the driveway accessing lots 16 & 17 to be reviewed and approved by Town Engineer, Tom Nace.
- 3) The draft Homeowner's Association bylaws with an emphasis on the wetlands.
- 4) Road construction schedule.
- 5) A written estimate on the amount to be placed in escrow.

Seconded by John Gaddy. **All in favor. Motion Carried.**

Note: The applicant agreed to have agenda items 8 & 9 heard together.

8) SD05-25 McGURL, THOMAS & MARYLOU. Represented by Attys. Jonathan Lapper & Stefanie DiLallo Bitter of Barlett, Pontiff, Stewart & Rhodes, PC, and Tom Hutchins P.E. of Hutchins Engineering. Seek to divide into 8 lots that parcel designated as 170.00-1-22.1. Zones RCL3, LC45 & LC25. Property Location: 520 Trout Lake Rd., known as Twin Pines Resort. Preliminary Plat. Major Subdivision. Subject to SEQR. *Note: This item is in conjunction with SPR06-52 and was tabled at the January 2007 meeting pending additional information and a public hearing.*

Atty. Lapper gave an overview and said that (1) the neighbors have finally been saying positive things about the project, (2) they feel they are in the home stretch, (3) Project Engineer Tom Hutchins indicated he would try to satisfy the Lake George Waterkeeper, even though they have already received approval from the Town Engineer, that although it is compliant right now, perhaps it could be made better by taking a few areas piped with

stormwater and have open cuts so they would infiltrate earlier on, (4) regarding contractual access, their position is that there is the one issue to show that they have enough shore frontage—they have over 1,000 feet of shoreline frontage and they only need 235 feet for the seven lots and about 550 feet for Lot 1, which would equate to about 890 feet—there is no issue as to if they have enough shore frontage to allow for an eight-lot subdivision and (5) the easement area shown was designated for use by members of the association so they wouldn't have the right to use the whole 1,000 foot parcel on the lakeshore—it would just be a portion of that, which is shown on the map and indicated in the HOA plan.

H. Koster asked if the cabin colony would be used in the same 235 feet. Atty. Lapper said that it would probably be best that be a non-exclusive easement so the colony and the homeowners all have access to that, but that the homeowners wouldn't have access to any more than that, which is still a much less intense use than they have now. H. Koster said that doesn't add up numbers-wise and Atty. Lapper said that (1) it does add up—because they have 1,000 feet of lake frontage on the whole property and (2) you are limited in the number of contractual access and the number of non-lake shore people who can use the lake and they are not even using all of the contractual access rights that they have. H. Koster said that his contention is that the 235 feet they have designated out is what is needed for eight lots and Atty. Lapper said that there is no requirement that be exclusive. Counsel asked how much shore frontage currently exists and Atty. Lapper said that it is 1,080 feet. Counsel said that (1) the Zoning Administrator used code 200-39 D for her determination, (2) 200-39 D talks about different combinations and it needs to be read in conjunction with 200-43 D, (3) 200-43 on minimum shoreline frontages says 175 feet as the base or primary lot, which the applicants have, then going from the threshold it would require 10 additional linear feet of shoreline for each additional lot. P. Kenyon said that (1) 175 feet would be required for the resort and 10 additional feet for each additional lot—she took the stricter of the rulings and (2) she did not know if the two residences were part of the 11 cabins. Tom McGurl Jr. said that the 11 include his parents' house. H. Koster said that he is being told that the 235 feet along the shore is going to have a right-of-way to all of it, which is not enough footage for all of it. Atty. Lapper said that (1) in terms of use, the cottage colony people are going to be able to use the whole property to play volleyball, build a campfire, use the beach, etc. and (2) 235 feet of beach is plenty of beach for everybody. H. Koster said that you can't add that cabin colony to the 235 feet because that is the minimum the applicant has for the other lots and Atty. Lapper disagreed and said that H. Koster is making that conceptual jump that there is a restriction and there is not that restriction—they just have to prove that they have enough land on the shoreline. Counsel agreed and said that (1) there is certainly enough shoreline to accommodate it and (2) he thinks H. Koster is saying that the applicant is doubling up by using a designated area for three separate uses. H. Koster said that (1) the applicant is using the same area for several different uses and (2) the applicant is overusing the 235 feet. Atty. Lapper said that it is enough area for all of the people. Tom McGurl Jr. said that over 250 people currently use the classic swimming area now. H. Koster said that given the current ordinance, the PB has a set of rules that are different from when this was set up 30 or 40 years ago. Tom McGurl Jr. said he doesn't think that is what the rules say. Counsel said that (1) there is a base of 175 feet and they took the stricter standards requiring an additional 10 feet for each additional lot, (2) there is also another residence that needs shoreline and even with that taken into account, the applicant still has enough with 1,080 feet, (3) H. Koster's

point is well taken in that what the applicant has delineated is awfully narrow and he is not seeing all of what he is interpreting the code to say—it is impacting on the shore, (4) regarding double dipping there are three tiers of use here for the 1,080 feet that can be utilized. H. Koster asked if the designated area to be used by the subdivision on the west side could be widened to accommodate the numbers the ordinance requires. Matt Steves said that they would add the whole area to the west.

Counsel said that P. Kenyon's determination adheres to H. Koster's concern in requiring 175 feet plus 6 X 10 feet plus 175 feet for the cabin colony then 175 feet for the residence. The applicants and the PB members agreed. Counsel asked if the 585 feet would be delineated on the map as being on one parcel and Atty. Lapper said yes, Lot 1 would be considered the serving parcel. P. Kenyon said that would be part of the entire subdivision and Counsel said that showing it on the map would be for future reference. H. Koster said that his point is in taking it from the buyers point of view--there needs to be enough room for all of the people.

S. Wilson asked about designated blasting times and Tom Hutchins said that (1) there will be some blasting and (2) they have shown the blasting areas on "S-5". H. Koster said that (1) they just want to make sure neighbors are notified of blasting times, (2) seismograph testing is done and (3) no damage is done to neighboring properties—all of which are done by the blasting company. Tom Hutchins and Atty. Lapper agreed.

9) SPR06-52 McGURL, THOMAS & MARYLOU. Represented by Atty. Jonathon Lapper of Bartlett, Pontiff, Stewart & Rhodes, PC, and Tom Hutchins P.E. of Hutchins Engineering. In accordance with Section 125.13C1 of the stormwater regulations, seek Type II Site Plan Review for a major project to remove more than 15,000 sq. ft. of vegetation. 6.95 acres is proposed. Section 170.00, Block 1, Lot 22.1, Zones RCL3, LC45 & LC25. Property Location: 520 Trout Lake Road known as Twin Pines Resort. Subject to WCPB review. Subject to SEQR. *Note: this item is in conjunction SD05-25. This item was tabled at the January 2007 meeting pending additional information and a public hearing.*

Motion by Donald Roessler to keep the public hearing open and table applications pending additional information as follows:

- 1) A revised stormwater control plan to be provided if feasible.
- 2) The 585 feet of shore frontage to be used in common for the Homeowners Association and tourist accommodations is to be shown.

Seconded by Sue Wilson. **All in favor. Motion Carried.**

10) SPR07-03 BOTTO, JAMES & MONICA. Represented by Tom Hutchins of Hutchins Engineering. In accordance with Section 125.13C1 of stormwater regulations, seek Type II Site Plan Review for a major stormwater project to remove more than 15,000 sq. ft. of

vegetation. 35,000 sq. ft. is proposed. Section 185.20, Block 1, Lot 4, Zone RCL3. Property Location: Acorn Drive off of Coolidge Hill Rd. Subject to SEQR.

Tom Hutchins, representing James and Monica Botto, gave an overview and said (1) they propose a log 5-bedroom residence with an adjoining garage on the three-acre parcel, (2) the site has been flagged, (3) the building will be very well screened, (4) as of now, the roof will be green and the logs will be brown and (5) they agree to any outside lighting being downward facing and shielded.

S. Wilson asked if Tom Nace's approval has been received and Tom Hutchins said yes.

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

S. Wilson said (1) there is a consensus to approve this 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 a public hearing and based on approvals from Town Engineer, Tom Nace, grant approval as presented with the following conditions:

- 1) Exterior lighting must be downward facing and shielded with low wattage bulbs used.
- 2) Exterior colors including green trim and roofing along with natural stain on the logs to be utilized.

This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. **Seconded by** Donald Roessler. **All in favor. Motion Carried.**

11) SPR07-02 MADYAN, RUSSELL. Represented by Dennis Dickinson Assoc. 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. 27,000 sq. ft. is proposed. Section 185.00, Block 1, Lot 14, Zones RR5 & LC45. Property

Location: Intersection of Lamb Hill Road & East Schroon River Rd. Subject to WCPB Review. Subject to SEQR.

Dennis Dickinson, representing Russell Madyan, gave an overview and said (1) the applicant proposed to build a home on the southern portion of the property, (2) they have done a topographic survey, soil testing and provided all the details for the septic and water supply and the driveway, (3) they have received a letter of approval from Town Engineer Tom Nace and (4) it is a very flat area—they have tested and they have very good soils there.

The PB had no comments or questions on this application.

WCPB approval by default.

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

S. Wilson said (1) there is a consensus to approve this 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 a public hearing and based on approvals from Town Engineer, Tom Nace, grant approval as presented with the following condition:

- 1) Exterior lighting must be downward facing and shielded with low wattage bulbs used.

This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. **Seconded by** Donald Roessler. **All in favor. Motion Carried.**

12) SPR07-04 PEPPER, JAMES & SWETLAND, SALLY. Seek to amend previously approved Site Plan Review (SPR03-36) for a garage and storage containing more than 1,500 sq. ft. of floor space. Specifically to incorporate a guest cottage/office on the second story that was to be used as storage. Section 156.12, Block 1, Lot 28, Zone RCM1.3. Property Location: 35 Cherry Avenue. Subject to WCPB review. Subject to SEQR.

Jim Pepper gave an overview and said that (1) when the structure was approved they discussed the need to come back for site plan review for the guest quarters, (2) the entire use is completely enclosed in the attic of the existing garage except for the deck, (4) the site is just under an acre and is well wooded, (5) it would be cedar siding with a dark shingled textured roof, (6) all lighting would be downward facing and (7) he has a new septic system design.

The PB had no comments or questions on this application.

WCPB approval by default.

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:

- 2) Exterior lighting must be downward facing and shielded with low wattage bulbs used.

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. **All in favor. Motion Carried.**

13) SD07-02 TOREBKA, THOMAS & ELEANOR. Seek to merge those parcels designated as Section 156.00, Block 1, Lots 62 & 63, then subdivide into 3 lots. Zones RL3 & LC25. Property Location: Intersection of Valley Woods Road & Edgecomb Pond Road. Minor Subdivision. Sketch Plan Review. Subject to SEQR.

Thomas Torebka gave an overview and said that they propose to merge parcels designated as 156.00, Block 1, Lots 62 & 63, then subdivide them into three lots between Zones RL3 & LC25 and the three lots would consist of one lot being 50.5 acres and each of the other two lots at 10 +/- acres each.

The PB had no comments or questions on this application.

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 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** Sue Wilson. **All in favor. Motion Carried.**

** It is noted that a copy of APA jurisdictional determination must be provided to this office when received.*

14) SD07-03 RICARDI, ALBERT. Represented by John Fazio. Seek to amend previously approved plat SD93-05 approved by the Planning Board on 1/28/93. Specifically to divide into 2 lots that parcel designated as Section 156.00, Block 1, Lot 25, Zone RL3. Property Location: 236 Valley Woods Road. Minor Subdivision. Sketch Plan Review. Subject to SEQR.

John Fazio, representing Albert Ricardi, gave an overview and said that they have just over 8 acres that they are proposing to cut out a three-acre parcel.

H. Koster asked if the 25-foot right-of-way is already designated and P. Kenyon said that is a proposed right-of-way. P. Kenyon asked for the PB to require a metes and bounds description of the right-of-way. John Fazio said they would provide that.

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 approval as presented with the following condition: A metes and bounds description for the right-of-way is to be shown on the plat. 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. **All in favor. Motion Carried.**

15) SD07-05 EMMERT, EUGENE. Seek to amend previously approved plat SD04-31, approved by the Planning Board on 4/28/05. Specifically to divide into 2 lots that parcel designated as Section 186.00, Block 1, Lot 40.13, Zone RL3. Property Location: Brookside Parkway off of Trout Lake Rd. Minor Subdivision. Sketch Plan Review. Subject to SEQR. (To be known as lots 2A and 2B).

Matt Steves, representing Eugene Emmert, gave an overview and said that (1) this is a two-lot subdivision--Lot 2 of the Brookside Parkway subdivision and (2) they are looking to create two lots out of the 6+-acre parcel into two lots of 3.0 and 3.67 acres.

D. Roessler asked if the applicant is looking to do Lots 2A, 2B and 3 and Matt Steves said no, they are just taking Lot 2 and subdividing it into two separate lots—Lot 2A and Lot 2B. P. Kenyon asked if the road is completed and Matt Steves said that the road was completed up to the end of the Kincaid's property at the time of the conveyance it was, but he doesn't know about the rest of the subdivision.

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 a public hearing and grant 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 Don Roessler. All in favor. Motion Carried.**

16) SD07-06 PIKE, ROBERT & GENELL. Represented by Matt Steves of VanDusen and Steves. Seek to amend previously approved plat SD05-01, approved by the Planning Board on 2/17/05. Specifically to merge those parcels designated as Section 140.00, Block 1, Lots 31, 32.1 & 36, and then divide into 6 lots. Zone RL3. Property Location: 1 Sawmill Road. Major Subdivision. Sketch Plan Review. Subject to SEQR.

Matt Steves, representing Robert and Genell Pike, gave an overview and said that (1) they are proposing to merge three parcels then re-subdivide them into six parcels and (2) they have sent a jurisdictional inquiry letter to the APA.

H. Koster asked if there could be something done with a common driveway to Lots 2 & 3 as opposed to what is shown and Matt Steves said that (1) it is going to be a common shared driveway centered on the lot line, so it will be one driveway for the two lots and (2) the Pikes will stipulate that they have approved it to a certain distance that the drive must be centered on the lot—they will designate it on the map.

J. Gaddy asked if the topography is miss-marked at area marked at the top of the ledge and Matt Steves said yes, it is mislabeled and will be corrected. J. Gaddy asked what grade types are expected on the common driveway and Matt Steves said it would be about 12%. S. Wilson said that the applicants would have to apply for a major stormwater and Matt Steves agreed.

Motion by Donald Roessler to accept the application as a completed sketch plan, convert the sketch plan to preliminary plat and table the application pending additional information as required in Section 150-25.

Additionally:

- 1) Lots 2 & 3 are to share 1 common driveway.
- 2) A metes and bounds description for the shared driveway on lots 2 & 3 is required.
- 3) A major stormwater project must be applied for.

Seconded by Sue Wilson. All in favor. Motion Carried.

17) SD06-01 FEDERAL HILL CORP. Matthew Defty. Seeks to divide into 7 lots that parcel designated as Section 156.00, Block 1, Lot 70.1. Zones RL3 & LC25. Property Location: 433 Federal Hill Road. Sketch Plan Review. Major Subdivision. Subject to SEQR. *This item was tabled at the February 2006 meeting pending additional information.*

Matthew Defty, representing Federal Hill Corp., gave an overview and said (1) they first presented their first proposal one year ago, (2) they have provided more detail per the PB's

request and (3) they downscaled one area from six lots to four and they have added an additional lot at the top of the parcel (as shown on the map).

H. Koster asked for the reasoning on the Lot 5 configuration and Matthew Defty said that in his effort to determine the wetlands, it was determined there is a stream that runs in that area, which is why they left the small buffer there. Dennis MacElroy said that Mary O'Dell of the APA did identify and flag some wetland areas along that corridor and this was their effort to not subdivide wetlands—they are just trying to play it safe.

H. Koster asked if the applicants will be able to get all their utilities in off of Federal Hill Road and Dennis MacElroy said yes, for the power.

Dennis MacElroy asked if it is accurate that when the PB includes the lot development within the stormwater, they would require use the generic outside and show where the stormwater from the house and driveway would be. Counsel said that (1) the applicant should do the hypotheticals and generics and (2) assuming this application receives its approval as a major subdivision, then there is a good chance that the applicant will also have the requirement that when each of the lots is about to be developed each lot owner would need to come back to supplement that with the real plan.

Motion by John Gaddy to accept the application as a completed sketch plan, convert the sketch plan to preliminary plat and table the application pending additional information as required in Section 150-25.

Additionally:

- 1) A major stormwater project must be applied for.
- 2) Road profiles are required.

Seconded by Donald Roessler. **All in favor. Motion Carried.**

Meeting adjourned 11:07 pm.

Respectfully submitted by
Jennifer Torebka
Recording Secretary
02/25/07