

**Town of Bolton  
PLANNING BOARD  
MINUTES  
January 25, 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, Sandi Aldrich, Henry Caldwell, John Gaddy, Chauncey Mason, Donald Roessler, Susan Wilson, Town Counsel Michael Muller, Zoning Administrator Pam Kenyon

**Absent:** None

**PUBLIC HEARING**

H. Koster opened the public hearings for Edward Brandow (SD04-08 & SPR06-21) at 6:10 pm.

*Note: Dennis Dickinson said that they are in negotiations with Julie Denison at this time and Rolf Ronning added that he believes they will be ready to go forward next month.*

- 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 December 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.*
  
- 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 December 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** John Gaddy to extend the public hearing on SD04-08 & SPR06-21 Edward Brandow, Trout Lake West, to the February 2007 Planning Board meeting pending additional information. **Seconded by** Donald Roessler. **All in favor. Motion Carried.**

H. Koster opened the public hearing for Richard and Vivian Simonson (SPR06-43) at 6:13 pm.

- 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, seeks 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.

Dennis Dickinson, project surveyor/engineer, representing Richard and Vivian Simonson, gave an overview by referencing the maps and said (1) the Simonsons bought 50 acres of which 49 acres are swamp, (2) they propose to build a home on the property, (3) there is a good acceptable area for sewage disposal, (4) the APA has determined that the project is non-jurisdictional, (5) Town Engineer Tom Nace has signed off on the stormwater and septic, (6) they have done a major stormwater plan, which is needed because it is a critical environmental area being that it adjacent to the wetland, (7) for stormwater, they have created a basin by the driveway directing all the water from the driveway to the basin, (8) there are infiltrators by the house patio to collect the eave run-off, (9) the WCPB has given a ruling of no county impact and (10) the ZBA would like the PB's input as it pertains to stormwater.

Atty. Melissa Lescault said regarding the criteria the PB judges a project on, (1) the project complies with all of the requirements of the code regarding dimensions, (2) all setback requirements are met, (3) regarding stormwater, the project complies with the required regulations and (4) regarding development within 100 feet of the wetlands, there is nothing in the code restricting this--even though it is the PB's discretion, and the APA has approved the project, (5) the applicants proposing a log cabin in this area is not devaluing nor will it decrease any of the public services, (6) the proposed single-family dwelling will not hinder parking in the area, (7) the project will not be hazardous to the land, (8) this project won't have adverse affects as there will be no affect on natural resources. The water will be taken care of by the stormwater plan. The wetlands and wildlife will not be affected, (9) the stormwater plan will work as designed and (10) the purpose of having the site plan review before the PB is to show there will be no pollution with this project.

From the public, Lynn Golhoffer asked where the applicants plan to put the septic system. Dennis Dickinson replied by saying that they did soil testing behind the cemetery and that shows an acceptable location, which meets all of the requirements. Lynn Golhoffer asked if the septic would be coming up the road and Dennis Dickinson said yes.

Lynn Golhoffer asked for the name of the APA official who signed off on the project and Dennis Dickinson replied by saying (1) the 02/28/06 letter from the APA is from APA project administrator Nancy Heath and (2) Mark Rooks, who is the head of the Wetland Biology Dept. for the APA who was on-site at the beginning.

From the public, Mike Elliott, neighboring property owner, said (1) the land is staked, but the person staking out the area puts in the stakes without taking into consideration what lives in the habitat (ex. painted and snapping turtles), which he sees as an environmental problem--not a wetland problem, (2) he questions where the line is drawn from where the lake ends and the water in the land begins, (3) the water in the land there is raising and lowering with the lake and should be considered lake, (4) he requests a full environmental study of the habitat of the entire wetland area to see if the project would disrupt anything. Dennis Dickinson pointed out the location of Mike Elliott's home on the map.

Lynn Golhoffer put up pictures of the area to reference and said that (1) her house will be directly influenced by this project, (2) the Huddle Brook area is the area under discussion, (3) the wetland is not swamp or marsh, but water that is there year-round--enough water to run a boat and fish year-round, (4) in addition to the concern of the turtles, there is also concern for the loons, blue herons, mallards, etc., (5) she understands the applicants purchased 53 acres and have a right to build a home on the property, but this is not the best location on that 53 acres, (6) she was told when she had a client interested in purchasing the property several years ago that there were only 3 lots available to build--behind the cemetery to Homer Point Road--not in the current proposed location, which would affect the existing habitat, (7) she is amazed that the applicants have the right to clear-cut the area before getting permission for the project, (8) she is also requesting a full environmental impact study, (9) she wants to know why it is being permitted that watershed is allowed to be demolished for almost 15,000 square feet, (10) she wants some knowledge of the nesting area that is home for multiple species of wildlife, (11) she wants to know about construction on this land, because the depth of the water table is less than 3 feet. The water table is so sensitive in this area, (12) all spring they have been hardly able to navigate the road due to the water, (13) she questions the applicants adding another pond in front of the wetland area, (14) she would like to know who the lead agency will be for SEQR, (15) when you destroy a watershed area of this magnitude, you open up the whole area, (16) this is not the only location to build this proposed house and (17) she hopes the PB will go to the site to look at it more closely, as the area is very sensitive right now and flooding.

From the public, Chris Navitsky, Lake George Waterkeeper, said that (1) he submitted a letter of concern, (2) although the APA originally said the project would require a permit, they reversed their decision. A decision which he is a little confused about, (3) he passed a copy of an APA document titled "Development in the Adirondack Park" to the PB members which clearly states, "...buffer strips of at least 35 feet should be maintained between any development and wetlands...", (4) it is NYSDEC policy that there should be a 100-foot buffer on wetlands, (4) even though there is no statute that requires a setback, the PB has the right to bring in concerns on habitat and wildlife impacts, (5) the stormwater does not comply with the ordinance as stated, because the applicants are in front of the ZBA and need a variance for the stormwater controls, (6) nutrient removal is not effective in core soils, which is evident on this site, because it doesn't get the contact time with the soil particles and it flows through too quickly, (7) stormwater controls should require a greater setbacks from the wetlands to increase the process of removal, (8) the applicants claim there is 1,816 feet of impervious areas, but it seems like there is a lot more impervious coverage there, so he would

like clarification on that, (9) he can attest to the wildlife living in that area and (10) he encourages the PB to take a stronger look at this project.

Kathy Bozony of the LGA, said that (1) she would like to reiterate Mile Elliott's point about Lake George and the tributaries coming very close to this property where the fill has been added, (2) there is a lot of evidence of new fill recently being brought to the property, (3) this area is a peninsula and the entire peninsula is a wetland, (4) she doesn't think the 100-foot setback from the wetland should be compromised in this case, due to the habitat, pollution and the absorption with wetland, (5) in the Town of Lake George millions of dollars are being spent right now to purchase Gaslight Village in order to recreate the wetland and (6) where all the trees have been cleared for this project, the land is a lot lower (5-6 feet) than the neighboring property.

From the public, Jim Sponskowski neighboring property owner, said (1) he doesn't even know why anyone is even here on this project, (2) the applicant's property map is totally inaccurate in comparison to the NYS Fishing and Wetlands map, (3) his understanding is that the applicants want to build a house in one part of the wetland and pump the septic through the wetlands to another part of the wetlands. He finds this totally unbelievable, (4) the APA letter regarding that they have no jurisdiction in this matter or concern with this project is even more unbelievable, (5) at the last PB meeting the PB members and Town Counsel all raised eyebrows regarding the APA letter, (6) in 1975 there was a determination that .67 acres behind the cemetery was the only acceptable building site, (7) he is inclined to believe that the photos are more accurate than the maps. He is not sure what maps the applicants submitted to the APA, (8) the proposed project is directly in the wetlands, (9) if the report from the APA is that hard to believe, the Town attorneys should also challenge it. It is 100% opposite of what the 1975 APA report stated, (9) when he spoke with Nancy Heath, she said she was unaware of the cutting of the trees, unaware that the fill being brought in, and unaware of the culvert taken out to divert the natural flow of water to dry up the property for the proposed house location, (10) he submitted a letter to Nancy Heath of the APA asking for her to withdraw her decision upon further review, (11) he agrees that the wildlife habitats will be affected by this project, (12) the culvert pipe was taken out by the Simonsons once they purchased the land, (13) the right-of-way is currently black-topped to the last resident on the road, (14) at the last PB meeting the applicant said he would not be making any improvements to the road. He (Sponskowski) feels that if the project is approved, then the applicant should be required to at the very least improve the road to his (Simonson's) residence if he is allowed to build it, because he (Simonson) is going to be using it on a regular basis year-round, (15) he questions if the water retention basins will work, (16) the wetland encompasses the whole land, (17) maybe by definition there is a difference between a setback from a wetland and the shoreline, but in this case they are one in the same and (18) to the best of his knowledge, he believes that the map presented tonight is wrong.

Kathy Bozony submitted the Warren County GIS map showing that the wetland--per the APA--goes all the way to the lake, extending to Homer Point, so it does encompass the whole area according to the APA.

Correspondence: read into the record by Counsel:

- Letter from Anthony S. Crisafulli, Sr., neighboring property owner, dated 01/18/07 - opposed.

Dennis Dickinson said that there was a lot of emotional input from the public here tonight and asked if the PB members had any questions.

H. Koster said that the Town of Bolton PB would be the lead agency on this matter.

J. Gaddy asked about water level and basements in the area of the proposed project and Mike Elliott said that he does not have a basement, but having had to unbury his waterline several times he can attest to the fact that the water table is no greater than 3 feet in that area. Dennis Dickinson said that is an issue they are dealing with to, so the proposed project has a foundation, but no basement. J. Gaddy said he is concerned with some of the test pits regarding the laws of depths, etc. Dennis Dickinson said (1) the 1990 test pits were done for a potential buyer and (2) it is correct that the water table is only about 2-3 feet down.

Counsel said that (1) if the public hearing is closed then it starts the clock, (2) the ZBA is requesting the PB's recommendation on the overall project and (3) the PB cannot, as an act of law, act upon the presentation tonight, because there is a recent appellate division decision that says the Bolton PB can act only on this issue of site plan when all the ducks are in a row, which includes the sought variance being granted.

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

### **REGULAR MEETING:**

H. Koster opened the regular meeting at 7:10 pm by asking for corrections to the December 21, 2006 minutes.

1) Sandi Aldrich said on page 6, paragraph 5, sentence 1, should read as follows: "...Counsel said he believes in fairness to what Bolton has agreed to in a consent order in previous litigation, where you take a major then subdivide it into lesser lots, the Town of Bolton still agreed and have consented that each of the lesser lots would still constitute another major, so this would be a *major stormwater plan*."

2) Sandi Aldrich said on page 8, in correspondence, the minutes reference a letter from Meredith McComb who is a **ZBA member**, not a PB member as reflected in the minutes.

3) Sandi Aldrich said on page 17, paragraph 3, sentence 1 should read as follows: "**S. Aldrich** asked if a decision was made in July as to whether this was a road or a drive and **P. Kenyon** said that the PB never made a determination on if it is a road or a driveway."

4) John Gaddy said on page 16, the motion for Item SPR06-3 Richard & Vivian Simonson (Agenda item #10), should read as follows: “**Motion by John Gaddy to schedule a public hearing for January 25, 2007 to be heard as item #2. Seconded by Sandi Aldrich. All in favor. Motion Carried.**”

**Motion by Donald Roessler to approve the December 21, 2006 minutes as amended. Seconded by John Gaddy. All in favor. Motion carried.**

*Note: the agenda items were heard in the following order: 1 through 6, 10, 7 through 9, and 11 through 13.*

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 December 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.*

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 December 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 keep the public hearing open and table the application pending an agreement between Julie Denison and Dr. Brandow. Seconded by Sandi Aldrich. 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, seeks 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.

H. Caldwell asked if there is a Shallow Beach Association and Mike Elliott said yes, there is a very loose verbal association where 90% of the people chip in and pay money for road maintenance and repairs. H. Caldwell asked how winter plowing is handled and Mike Elliott said that they divide it up among the residents that stay there in the winter—they are the only ones charged. H. Caldwell asked if the whole hill gets sanded and Mike Elliott said no, it stops at the last house—they do not plow from the end of the road down to the beach. D. Roessler asked if the road stops at Mr. Elliott's residence and Mike Elliott said yes. H. Caldwell asked if there has ever been a fire truck or ambulance down in the Shallow Beach area and Mike Elliott said that it would be impossible for one to get down there. It would be up to its axles. H. Caldwell asked if vehicles use the area from the end of the road down to the beach and Mike Elliott said it is only used for walking and maybe for snowmobiles coming off of the lake.

H. Caldwell asked the effectiveness of the stormwater recharge basin with the water table being 2-3 feet and Dennis Dickinson replied by saying that (1) the Town of Bolton regulations stipulate that 2 ft. from the bottom of the basin to the high ground water is required, the science behind that is that 1 foot is sufficient to remove 99% of the nutrients, so they doubled it as a factor of safety, (2) two feet is the requirement and two feet is what they have and (3) Town Engineer Tom Nace, who approved this, is a very cautious guy.

S. Wilson asked who owns the right-of-way. P. Kenyon said that (1) she is not sure who owns the right-of-way and (2) she researched the matter today with Dave Rosebrook in effort to find out exactly where the right-of-way actually was, which is on the westerly side of the western boundary line. Dennis Dickinson said that (1) the Simonsons own the right-of-way—survey map 1 of 2 shows that that the Simonsons have underlying title from Route 9N to Mike Elliott's house and (2) basically, 99% of the right-of-way is owned in the deed by the Simonsons.

J.Gaddy said (1) he knows the APA goes and looks at the wetlands, but he is surprised by the APA's determination, (2) going through the Town of Bolton's Comprehensive Plan, it said essentially that "...the wetlands are the most productive ecosystems in the world and they are valued for their ability to improve water quality by filtering nutrients...." and it also says that "...construction as well as disturbances to wetlands and their adjacent areas are affected by a variety of state, local and federal regulations..." and "...within the Town of Bolton wetlands are widely scattered, however there are some of significant size and quality that are worth protecting specifically...", (3) he knows the road going out to Homer Point in the last couple of years has been under water and (4) whether or not the PB agrees with the APA, it is a spot that needs to be protected. Dennis Dickinson said that (1) in his 30-years of experience with the APA, the APA's most primary goal in the protection of the park, predominantly is wetlands, (2) Mark Rooks is well-educated and experienced in his field of biology and his driving force is to protect the wetland. He has made his determination of where the wetlands are before they started their project, (3) the APA has given their blessing, (4) they have done necessary remediation to remediate the stormwater effects they will have by putting the proposed house there, (5) there are all kinds of wetland in that area, but the lake would have to be really high to have standing water there, (6) they have 100+ feet from the development to the shoreline, (7) Vivian Simonson is probably as environmentally fired up as anyone in

this room, (8) the applicants bought the property and they want to build on it and (9) there are two locations they can build and both have been set aside and marked by the APA—the area of the proposed house site and the proposed sewage area.

H. Caldwell asked where the waterline will be run and Dennis Dickinson responded by saying that he has not yet asked the Simonsons if they will be drilling a well or using municipal water. H. Caldwell asked if the sewer line would be going right in the road and Dennis Dickinson said that the sewer line goes right along the edge of the road outside the wetland and eventually will come into the road. H. Caldwell asked how deep that has to go and Dennis Dickinson said four feet. J. Gaddy asked the depth of the water table and Dennis Dickinson said (1) it is two feet and (2) they have detail trenching shown on the maps. S. Wilson asked if they would be driving over it and Dennis Dickinson said yes, four feet deep in road traffic is not going to affect that line.

S. Aldrich asked if the sewer line would be going on the east side of the road as shown on the map and Dennis Dickinson said yes, it goes up against the edge of the road. S. Aldrich (1) said there is also a wetlands stake within two feet of the road and (2) asked if the sewer line would be going through the wetland. Dennis Dickinson said it would not be going through the wetland.

Lynn Gollhoffer said that in her deed and other neighbors' deeds, there is a paragraph that says they have the right-of-way down Shallow Beach Road to access their houses. Mike Elliott said that (1) the waterline goes along the front of the houses down about 150 feet towards the proposed house site, but it is in maybe two or three feet and (2) the sewer line will run parallel, on top of, or next to it, so they will be side-by-side if they don't tear them out. H. Koster asked if the waterline is in the water table and Mike Elliott said it is below it-- it had frozen at one time even though it is in a plowed area. Dennis Dickinson said that wherever the waterlines are, they have to and will work around that. Mike Elliott asked if Dennis Dickinson will be drawing on the map where he is going to put the sewer line without having knowledge of where the waterline is and Dennis Dickinson said he would like knowledgeable people like Mike Elliott to help him out in locating the waterline, because they certainly don't want to dig up anyone's waterline.

S. Aldrich asked if the applicants have the required front-yard setback from the right-of-way and P. Kenyon said yes, based upon her research of the deeds, she believes the applicants do meet that setback, but if they don't then they would need a variance.

Dennis Dickinson said that (1) there are all kinds of maps available for wetlands and each has to be taken in its own right, (2) this is a specific request and location of a wetland, which would supersede any gross mapping and (3) you cannot necessarily look at the maps and determine what is wet and what is dry.

H. Koster (1) said it is a very delicate area and (2) asked if the ZBA is asking for the PB's opinion on this matter for their February meeting. P. Kenyon said she hasn't done that meeting agenda yet, but she doesn't think that the ZBA is rushing the PB in any way.

Counsel said that one thing that may help the PB in determining relevant issues is to ask the applicant to provide a long form SEQR.

J. Gaddy asked how a situation is handled where an agency has no record that there are endangered or threatened species or habitat, but someone feels there are. Counsel said that (1) it would never be resolved favorably to the board's satisfaction, (2) in the analysis of where it starts, it starts with the applicant to answer the question to the best of their knowledge and if the PB felt the answer was not entirely satisfactory then the PB would engage the service of an expert as a board, (3) the code provides that the PB may do so and the applicant agreed by this application to pay for that, then the Zoning Administrator finds that expert, (4) he thinks the first step is to find out if that is an issue and if so does the PB want to challenge it (6) the PB should at least let the applicant submit a long form SEQR.

H. Caldwell said that (1) if Shallow Beach were vacant land and someone wanted to set up the current subdivision, it wouldn't be allowed, (2) it is a pre-existing non-conformity and the problem is sort of being added to in terms of that it is already not good access for emergency vehicles and (3) his question is if this is sort of grandfathered in the proposal to add a new home. Dennis Dickinson asked how close you have to get to a house to fight a fire and D. Roessler said within 50 feet. Dennis Dickinson asked if you are that close to every house in the Town of Bolton and D. Roessler said that (1) no, but you are probably within a couple hundred feet, (2) the problem therein lies that the further away you are the more difficult the job is and (3) once the line is charged it can't be moved. H. Koster said that if the applicants were to use the other available area on the property then you could probably use Homer Point Road.

S. Aldrich said regarding the Costa's project some years ago, the Army Corps of Engineers were very concerned about that wetland, which is the eastern side of this wetland and asked if that is warranted in this case. H. Koster said that (1) he believes that homeowners' association contacted the Army Corps of Engineers and (2) he would prefer to have the Town of Bolton PB remain the lead agency on this matter. Dennis Dickinson said that the Army Corps. of Engineers usually don't get involved unless you fill over a certain amount in a wetland or you alter the flood plane of an active stream.

H. Caldwell said that (1) regarding 200-32, he would like to see what the fire company says about the access in that location and (2) he does think a long form SEQR should be done.

**Motion by** Henry Caldwell to keep the public hearing open and table the application pending the submission of a long environmental assessment form. The zoning office is to forward the application to the fire department for their input, with an emphasis on Section 200-32.

**Seconded by** Chauncey Mason. **All in favor. Motion Carried.**

**4) SPR06-56 LJDJ ENTERPRISES, LLC. David Johnson.** Represented by Atty Michael O'Connor. Seeks Type II site plan review for 1) a group camp (Tree Top Challenge Course) and 2) a major stormwater project to remove more than 15,000 square feet of vegetation. 29,300 square feet is proposed. Part of Section 139.00, Block 1, Lot 8.1,

Zone RIL3. Property Location: Hendricks Road and being lots 2, 3 and 4 of the Westwood Forest Subdivision. Subject to WCPB review. Subject to SEQR.

Atty. Michael O'Connor, representing LJDJ Enterprises, LLC, gave an overview and said (1) they propose an outdoor adventure group camp, (2) the applicant bought three lots out of the subdivision and most of the three lots will be devoted to an outdoor course system with a small 1,400 square foot reception building and a parking lot, (3) the operation will basically be by invitation only, (4) the premises will be open from 8:00 am until the last course finishes about 5:30 pm or 6:00 pm and the days of operation would vary by season as proposed in the application, (5) on-site parking would be provided, (6) there will be no affect on public utilities, (7) they may try to do some shared parking and facility use with the school, (8) the peak use of the school field would not conflict with their facility use schedule, (9) the map he is referencing may be different from the one submitted by the deadline and showed the differences, (10) they are proposing seven courses and (11) Town Engineer Tom Nace reviewed the project and has a few items as referenced in the engineer's 01/25/07 letter which they will address.

Dennis Dickinson said that (1) the Johnsons purchased three lots which are industrial lots according to the Town of Bolton and they would have to use 1/3 of the gross area as their impervious area and (2) the Johnsons want to do the low-impact adventure situation so they don't have the impervious areas they designed for so the three basins they put in would be adequate as opposed to the four originally planned and Tom Nace has agreed only three are needed. J. Gaddy said he thinks they would want to keep everything in there that was designed. Dennis Dickinson said that it seems overkill to him since they are only using 1/27 of the capacity of the three basins approved as part of the subdivision. H. Koster said that the PB could have any project changes back for stormwater review. P. Kenyon said that Tom Nace will be contacting the PB regarding removing the basin on Lot 4. H. Koster said he would rather see the area not disturbed if the basin is not needed.

Atty. O'Connor said that they are on a very limited timetable, as they have a crew (who are obtaining visas to work on this project for 9 months) lined up to construct the aerial courses in late February.

H. Caldwell asked who would hold the liability and David Johnson said that (1) eight courses are operational in Canada right now. This year there were no accidents whatsoever other than a scrape on a zip line. (2) it is a very safe, well-designed system brought over from Europe into Canada and this would be the first of its kind in the United States. Atty. O'Connor said (1) participants aren't allowed to simply go on the course—they go on with a guide and in intervals so as to not interfere with each other and (2) all participants have elaborate safety harnesses on.

S. Wilson asked if an arborist would come back periodically to check on the maintenance of the trees and David Johnson said that (1) his staff would inspect the course daily and (2) the installation company would inspect it annually. S. Aldrich asked if the arborist continues to check on the trees after the project is complete and David Johnson replied by saying that Jim Hunt of Hunt Tree Service did an initial study on each of the eighty trees selected and (2)

there would be no need for Jim Hunt to come back unless there was lightning or high winds that damaged the course. H. Koster asked if the facility would be regulated by a state agency like the one that inspects rides at The Great Escape and David Johnson said that he does not believe so. Atty. O' Connor said his recollection is that the state agency H. Koster is referencing only inspects mechanical rides.

J. Gaddy asked if there would be other bathroom facilities along the course in addition to the two units in the welcome center. David Johnson said the two restrooms in the welcome center would be the only ones on-site.

S. Aldrich asked if the course would be lit and David Johnson said no. Atty. O'Connor said that there may be some exterior lighting in the parking area and on the outside of the welcome center, but it would be downward facing. S. Wilson asked if the applicants would need to come back before the PB if they decided to do course lighting and P. Kenyon said that it would be dependent on the PB's conditions of approval.

WCPB approved the project because of its economic benefits.

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

J. Gaddy said (1) there is a consensus to approve this 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.

There was discussion on the possibility of outdoor lighting and J. Gaddy recommended that there be motion sensor lighting.

From the public, Rolf Ronning said that (1) he owns the lots around the area that the Johnsons are developing, (2) his lots will be residential lots and (3) motion lights will not be beneficial to the neighborhood--it will actually devalue the property because they are a detriment rather than a help.

H. Koster said that he agrees that motion sensor lighting would not necessarily be a good thing. Additional discussion ensued on outdoor lighting options.

**Motion by John Gaddy** to accept the application as complete, waive a public hearing and grant approval as presented with the following conditions:

1. All stormwater controls, septic system and well locations are to be reviewed and approved by the Zoning Administrator and Town Engineer.
2. All exterior lighting must be downward facing and shielded with low wattage bulbs used.
3. The parking lot must not be illuminated after 10:00 pm.
4. If the “challenge courses are to be illuminated, the applicant must reappear before the Planning Board.
5. 1 security light is allowed on each end of the visitor center.
6. Stormwater basin #6 located on lot 1 can be abandoned. However should the use of the property change from a tree top challenge course, site plan review will be required to install the basin.

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.**

**Note: Tom Jarrett, representing Richard and Elizabeth Kranz, agreed to have Agenda Items #5 and #6 heard together.**

**5) SD06-18 EAGLE RIDGE SUBDIVISION. Richard & Elizabeth Kranz.**

Represented by Tom Jarrett of Jarrett Martin Engineers. Seek to divide into 3 lots that parcel designated as Section 140.00, Block 1, Lot 40.6, Zone RL3. Property Location: New Vermont Road, formerly known as the Observatory & Rugg Hill Subdivision. Minor Subdivision. Sketch Plan Review. Subject to SEQR. *NOTE: This item is in conjunction with SPR06-31. This item was tabled at the December 2006 meeting pending additional information.*

**6) SPR06-31 EAGLE RIDGE SUBDIVISION. Richard & Elizabeth Kranz.**

Represented by Tom Jarrett of Jarrett Martin Engineers. 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. 1.9 acres is proposed. Section 140.00, Block 1, Lot 40.6, Zone RL3. Property Location: New Vermont Rd., formerly known as the Rugg Hill & Observatory Subdivisions. Subject to SEQR. *NOTE: This item was tabled at the December 2006 meeting pending additional information. This item is in conjunction with SD06-18.*

Tom Jarrett of Jarrett Martin Engineers, representing Richard and Elizabeth Kranz, asked if any feedback has been received from the Fire Dept. on this project.

D. Roessler replied by saying that the following recommendations were made by Don Volkmann, but were not officially from the Fire Dept.: (1) coming off the main part of the road onto the driveway is 12% then shortly thereafter it is 15%, which is an issue because of

winter conditions, (2) the danger of water access to this property is questionable in regards to accessibility by emergency vehicles, (3) the road needs to be wide enough for two fire trucks to pass, (4) a sprinkler system in the homes up top would be a good suggestion and (5) the length and grade of the road are big concerns for the Fire Dept.

Tom Jarrett said that in lieu of what was proposed, what they would do is build a dry line with a dry hydrant on the bottom at the pull-off area at New Vermont Road. J. Gaddy asked what the elevation is at that location and Tom Jarrett said it is about 170 feet. D. Roessler said that (1) the applicant would need to check with the Fire Dept. on the feasibility of that and (2) he thinks that suggestion would be a major improvement. H. Koster asked if the grade at the entrance could be decreased any and Tom Jarrett said (1) that is why they built the pull-off on the right side and (2) if he flattens the entrance then he is increasing the steepness of the road further up. He doesn't really have any ability to flatten that entrance area.

J. Gaddy said that he would like additional test pits done. Tom Jarrett said they haven't even gotten to the design process yet, but he will be doing further testing if they get beyond the driveway issue tonight. J. Gaddy said that he would rather consider this as a roadway, not a driveway. Tom Jarrett said that he would rather address the Fire Dept. concerns rather than widen the road. J. Gaddy said that (1) he is not in favor of the area and (2) it was a road that was kind of sneaked in on the PB. Tom Jarrett said that they feel it is a viable situation, but understands the PB's concern.

J. Gaddy said that at C1 there is about a 30-foot change for the houses on the central and northernmost lots and asked how the houses would be accessed. Tom Jarrett replied by saying (1) when they first laid them out, the thought was to put garages down low and paths to the houses, (2) the houses could be built lower and closer to the road and (3) he has not picked the final house locations, as he is more concerned with picking stormwater and wastewater locations.

H. Koster asked if the applicants considered reducing the grade of the road by going east closer to the property line from elevation 860 to the property line. J. Gaddy asked if it is all ledge rock by the 880 marker and Tom Jarrett said yes, to the north. H. Koster said he would like to see the 16% grade reduced. Tom Jarrett said that in order to get the grade below 16% it would take a lot of cut and earthwork. D. Roessler asked if it would be a dirt surface and Tom Jarrett responded by saying yes.

H. Koster said that this is a tough project. Tom Jarrett said that for the record he wants it known that it was not these applicants that did that and the PB members agreed.

J. Gaddy said that (1) there is a rock outcrop along the south property line so the entrance couldn't be extended to the south, (2) there hasn't been as much sediment erosion to New Vermont Road since the control measures have been put in there and (3) the water bars are pretty significant and he doesn't know what sort of condition the road would be in without them. Tom Jarrett said (1) he talked to the applicants about leaving some type of water control structure across the driveway, (2) they plan to have a check dam above the culvert to

make sure road drainage gets off the road quickly and (3) the water bars have been very effective. H. Koster said that he agrees that he doesn't want to see the road widened any further other than what the Fire Dept. requires, because you'd be looking at cuts over 100 feet wide.

S. Wilson asked if it would be a major improvement by adding the dry hydrants and D. Roessler said (1) it is an improvement for fire safety, (2) there is still an issue with the grade of the road if an ambulance needs to get up there after an ice storm and (3) protecting the houses with the dry hydrant is great, but you then have to think about protecting those accessing the houses as well as the homeowners, delivery people, etc. Tom Jarrett said that he agrees with the concerns of access with a major ice storm, but if you have a major ice storm even a 4% grade poses a problem. D. Roessler said that a dirt road is also a concern because they freeze up and they stay frozen. Tom Jarrett agreed and said that is one reason to go with pavement even though it sounds contradictory. D. Roessler agreed.

D. Roessler said that while the applicants have shown improvements since they were last here, the 16% is still steep. H. Koster said that (1) theoretically this should be designed as a road, but he doesn't want a road for three houses to chop away half the mountain, (2) 16% is tough to live with and (3) if it were made to be a road then the applicants wouldn't be able to do it because they wouldn't be able to go beyond 12%. Tom Jarrett said that he could try to cut the grade down to 15%, but he is hesitant to go down any more than that. D. Roessler said that he thinks it is a waste of time for the Town of Bolton to look at anything else until the applicants get the grade down, because at best it would still be 15%. J. Gaddy said that he doesn't want to have the PB determine that road serving three houses is a driveway going up 16% grade, because this opens up a lot of stuff that will be coming up before the PB.

H. Koster asked if the PB can have a public hearing on the matter and Counsel said no, probably not. H. Koster said he doesn't see how the applicant can get beyond a sketch plan with the slopes they have. Counsel asked if it is going to always be unacceptable and H. Koster said that he doesn't know—he doesn't see any great improvement in it. Counsel said (1) the applicant would need to hear that now, (2) it is an awful burden to put the applicant through additional expense, time and energy to get a certifiable no and (3) it sounds like pre-judgment but it is also fair disclosure as to what could happen. H. Koster asked Tom Jarrett if he feels he could improve this and Tom Jarrett replied by saying that (1) he can improve it to some degree, (2) he can't get it down to 12%, but he could realistically get it down to 15%. H. Koster said he doesn't want the applicants to go through too great of an expense for redesign, but he does see the negativity toward this project from the PB.

H. Koster said that (1) it doesn't sit right with him as it is now and the only way he sees an improvement is to make some very wide cuts to improve it and (2) the slopes coming off the roadway would be really wide at the top if you go down another 3-4 feet or more. D. Roessler said that (1) the proposed dry hydrants would need to be reviewed and approved by the Fire Dept. and (2) if the applicants intent is to soften the grade, the Fire Dept should also be aware of that. Tom Jarrett said he would let the Fire Dept. know and would like for the Fire Dept. to reply.

**Motion by** Donald Roessler to table the application pending additional information as follows:

1. Deep test hole data is to be provided for each lot as it pertains to septic and stormwater.
2. The engineer is to explore the possibility of lessening the grade on the road/driveway.
3. Information on a dry hydrant to be provided.

The zoning office is to forward the additional information on to the fire department for their input. **Seconded by** Sandi Aldrich. **All in favor. Motion Carried.**

**Note: Rolf Ronning asked to have Agenda Items #7 and #8 to be heard together.**

**7) 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). A lot line adjustment is now also proposed between these parcels. No application filed. 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 September 2006 meeting pending additional information.*

**8) 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 September 2006 pending additional information.*

Rolf Ronning said (1) they now have an APA non-jurisdictional letter, (2) all of the PB recommendations are reflected on the maps and (3) he is hoping the Town of Bolton will take over the road once he builds it to Town of Bolton specifications.

Dennis Dickinson said (1) the property will be subdivided into 23 residential lots, (2) the APA has taken Lot 12 that lies on both sides of the road and counts it as two lots, which he finds infuriating, (3) Town Engineer Tom Nace has approved the project, (4) there is a very large common area that includes much of the wetland, but it also includes the entire road, (5) they set up a strip of common area along the stream, (6) it is all on-site sewer and water, (7) they have received a non-jurisdictional letter from the APA, (8) they have located and flagged all the wetland, (9) they have struck a deal with Mike Leone to sell him the

landlocked piece to attach to his property and (10) they have an agreement with Billy Reed to get a right-of-way through his property to access two of the lots.

J. Gaddy said that there is about a 40-foot elevation change from where Billy Reed's is and the lower area. Dennis Dickinson said that they also widened the road and provided the fire company with a dry hydrant.

J. Gaddy asked what the pink flagging on the site is that goes up off the loop road to where the drainage is (station 65) and Dennis Dickinson said that he is not sure, but at one time they did flag the road location in pink.

Rolf Ronning said that the yellow warning tape is for the road. J. Gaddy said there is pink flagging that needs to be discussed, because he thinks it needs to be moved out of the wetlands area. Dennis Dickinson said that they moved the road twice to make sure they weren't in any wetlands, so he'd be surprised if they are in it. J. Gaddy requested a site visit for clarification purposes and Dennis Dickinson agreed. Rolf Ronning said (1) that is not a wetland, but just a little area that collects water, (2) Tom Nace has been reviewing this and has been signed off on stormwater management, and (3) the APA has marked all the wetlands, saw that small area and said it is not a wetland. J. Gaddy said he thinks the road can be moved over a few more feet.

Rolf Ronning said that he would like the PB to schedule the public hearing for next month. J. Gaddy said that he still has issue with Lot 16 because he would like access to be off the loop at a lower section. H. Caldwell said that it is odd that most of the driveway for Lot 16 is on Lot 17. Rolf Ronning replied by saying that (1) he is aware of that and he is responsible for selling these lots and (2) the design of that driveway to access those two lots is the logical way to go with the least disturbance and interference with stormwater. J. Gaddy said that (1) it is a pretty sensitive area, (2) it would equate to about 600 feet of driveway, (3) he recalls one time where the road commissioner who was concerned with the stormwater effects coming off this road for which (4) his goal is to minimize any further disturbance. Dennis Dickinson said that (1) the purpose of stormwater is to not have any effect on the stream and (2) they have some pretty large stormwater basins. J. Gaddy agreed.

H. Caldwell asked if the wetlands would become Town of Bolton property if the Town of Bolton takes over the road and Dennis Dickinson replied by saying that (1) if it is decided the Town of Bolton wants and gets the road, he thinks the Town of Bolton would be remiss to take the road and not take the stormwater basin, because they are one of the same really and (2) if the Town of Bolton wants to take the road and the stormwater basins but don't want the wetlands then the (applicants) would have to go back to the agency to work something out. H. Caldwell asked who would get the wetlands if the Town of Bolton doesn't take it and Rolf Ronning replied by saying that the offer will be for the Town of Bolton to take the 64 acres and the wetlands then there wouldn't need to be an association at all. Dennis Dickinson said that speaking as a Bolton resident/citizen, (1) he's never understood the Town of Bolton not taking over the roads and (2) he would also like to see the Town of Bolton take over this land because there are a lot of trails.

H. Koster asked about access to the basin by Lot 11, because it can't be accessed other than going over someone else's property. Dennis Dickinson said that there is a driveway that goes to Mowery's house as you come to the top of the hill there is a woods road to the right that comes right into the area where they have the basin for access and pointed it out on the map.

H. Koster asked what changes need to be made on the maps before next month and Dennis Dickinson replied by saying that the only change he sees is to answer the question of Lots 9 and 10. H. Koster asked about the negotiations with Billy Reed and Rolf Ronning said that they have a signed contract with Billy Reed, so that contract is complete. H. Koster said he doesn't see any metes and bounds shown for the right-of-way and asked if that is it for possible changes. Dennis Dickinson said that is it for possible changes.

**Motion by** Donald Roessler to accept the preliminary plat as complete pending additional information as follows:

1. A metes and bounds description for the right-of-way accessing lots 9 & 10 from the Reed property are to be provided.

A public hearing was scheduled for February 15, 2007 at 6:00 pm to be heard as item # 4. **Seconded by** Sandi Aldrich. **All in favor. Motion Carried.**

**9) 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 September 2006 pending additional information.*

Rolf Ronning asked the PB to table this item.

**Motion by** Donald Roessler to table the application pending a public hearing on SD06-16 & SPR05-11 (Saddlebrook Subdivision). **Seconded by** Chauncey Mason. **All in favor. Motion Carried.**

**10) SPR07-01 RONNING, ROLF.** To provide electric service to Hendricks Road, seeks to discuss building an overhead primary pole line, beginning at exit 24 of the northway proceeding to Hendricks Road on County Rte 11. See Section 200.20D4

Rolf Ronning gave an overview and said (1) he had several meetings with National Grid regarding this matter, (2) he knows the PB had concerns and would like underground power in that location, (3) the Town of Bolton's restrictions on underground power are on private property that goes to the county right-of-way, (4) National Grid got permission from Warren County to put above-ground poles in, (5) National Grid doesn't want him to speak on their behalf and they don't feel their attorneys need to be here because the Town of Bolton PB does not have jurisdiction on this matter, (6) there is a pole north of East Schroon River Road

to Hensler's field and it is going to go from there to Hendrick's Road and (7) he supplied a map of where the poles are to the PB members.

Atty. Mike O'Connor said that they spoke with Mike McCarthy who is the planner of National Grid who told them that National Grid is going to get a Warren County permit to go up County Route 11, which they have done. H. Koster said that underground power would only be 30 inches down and asked if National Grid would be willing to do it if Rolf Ronning pays for it. Atty. O'Connor said he doesn't think they got that far. Rolf Ronning said that National Grid told him that because of the slope of the road of County Route 11 on both sides you can't dig underground in a slope—it has to be level—there's not enough room.

J. Gaddy said that (1) the PB received a letter from Michael McCarthy and one from Catherine Semore talking about a figure of \$462,000 to bury the lines on Hendrick's Road, (2) a study done in 2006 by the Edison Electric Collective, that represents 90% of the power producers in the county which talked about how in different parts of the country they buried stuff underground and it cost them about \$1 million per mile and the only way this is done is when there is a commitment to aesthetics, (3) his argument still holds that CR11 is still one of the most beautiful roads around, (4) he agrees that roads are good, but they should be controlled roads as he doesn't feel the expense for protecting the beauty we have here should be ignored, (5) he knows it is expensive but he also thinks it is a resource that should be kept in mind the whole time. He doesn't think they should sell out—he would really like to see it buried underground, (6) there is currently a fiber optic cable from CR11 to Route 9N, (7) he asked Mr. McCarthy if burying cable underground is in his realm and he said no, he just plans and (8) he thinks National Grid has that type of equipment.

Rolf Ronning said that (1) in talking with P. Kenyon and Counsel, it seems that the Town of Bolton PB doesn't have jurisdiction here because it is county land, (2) he doesn't know if legally the Town of Bolton has the jurisdiction to say no to this and (3) had he thought he'd have to spend another \$500,00 for power, he certainly wouldn't have sold the lots for the price he did. Counsel said that (1) the research indicates that the PB's restrictions and requirements are applicable to a public utility if they are reasonable—if they are construed reasonable by a court of law, then they apply, they however cannot be prohibitive, (2) regarding Rolf Ronning's statement that CR11 scenic corridor only applies to private property, it can in one fashion be read that way, but in the other fashion it can be read as shown in D-4, (3) it is not absolutely or positively stern or mandatory, because there is flexibility in it, (5) he does believe it applies—if the county has granted its permission and the public utility thinks it can get out there, then he guesses they are at legal loggerheads and the question is what the PB wishes to do, (6) before the PB gets there, he would like the PB to give Rolf Ronning the fair hearing on the fair hearing of if there is some practical aspect that he can't reach, (7) the PB's concern ought be if there are some other feasible plans or not, which would be the diligence and study the PB goes through before making a determination and (8) should the PB make a determination that says the PB is going to hold this developer to the requirements of the scenic corridor then perhaps that has staked out the territory of what the fight is, then the Town of Bolton in the intent to uphold the scenic corridor gets into a battle with the public utility.

J. Gaddy asked how much more it would cost to bring the electric underground and Rolf Ronning said that (1) it would be close to 1/2 million dollars and (2) there is less underground power to go through Gardners than CR11, but Gardners has to be blasted the entire way because it is all ledge rock. H. Koster asked about the possibility of going overhead across the Gardner property and Rolf Ronning said that Gardner won't allow it. J. Gaddy said he asked the applicant if he checked to see if the Methodist Council would give access to bring the poles across the west and Rolf Ronning replied by saying (1) he can't speak for National Grid, (2) the best power and amount of power is at River Bank and (3) he thinks this is the right thing to do. Atty. O'Connor said that (1) the problem he sees is that the development isn't intense enough to pay the difference, (2) he doesn't know if the Town of Bolton sees it as enough of a significance to underwrite part of it and (3) if you add \$50,000 to each lot it just makes it prohibitive. J. Gaddy said he doesn't see, from the applicant's presentation, the difference between going under or above ground.

Rolf Ronning said that he doesn't think that the existing poles on CR11 are offensive to anybody. Atty. O'Connor said that National Grid will not spend the money and time and give you an estimate if they don't think they are going to build the project.

H. Caldwell said that (1) in Woodstock, VT the lines are underground, (2) Bolton would be much more beautiful if the lines were underground, (3) coming down CR11, your view of Lake George is through power lines and (4) last year in the storms, power lines came down and took down pine trees--if the lines were underground then pine trees wouldn't be coming down on top of them. Rolf Ronning responded by saying that after Hendricks Road there is more width, but that stretch of road from Hendricks Road to East Schroon River Road is steep—there's no room on either side, so it is impractical based on the conversations he has had with the people at National Grid. H. Caldwell said that Niagara Mohawk did go underground on the south side of Mohican Hill to the substation. H. Koster said that National Grid could bring the power under the shoulders because it is flat there. J. Gaddy said that (1) National Grid could run it on old CR11 and (2) there are creative solutions to the problem. Rolf Ronning said (1) he cannot speak for National Grid—they didn't want to come here tonight, (2) his understanding is that Nation Grid has gotten their permits from the county and their attorneys feel they are legally bound, so they are waiting for a check from him then they'll start building it and (3) National Grid is intending to go forward and he is not sure of the procedure for this. H. Caldwell said he thinks the Town of Bolton needs to take on National Grid.

S. Wilson asked if anything can be done without an application and Counsel said (1) yes, the PB can give the matter consideration and advise Rolf Ronning, (2) he believes Rolf Ronning is telling the truth in that National Grid is ready to go and that Warren County has issued the permit and (3) if the PB's position is that Bolton is going to hold the line then he guesses the line has been drawn in the sand, then he will get instructions from the Town Board on what to do. Rolf Ronning said that (1) if the Town of Bolton PB tells him to not go forward or to not right the check then he foresees tons of lawsuits which will take 6 months or a year before anything is done and (2) people who have bought lots already will not have power—it will turn into a mess.

J. Gaddy said that he knows Rolf Ronning has been so generous with the school, so he thought Rolf Ronning would want to come up with the money to put the power lines underneath. Atty. O'Connor said that he doesn't understand why the entire Town of Bolton wouldn't incur the \$400K expense for underground wiring for the Sagamore in downtown, but then expect one person to reach in his pocket and pay for this in a more remote area. J. Gaddy said that was a good point.

Counsel said (1) Rolf Ronning is entitled to an answer, (2) there is flexibility in that if it is not an unreasonable mandatory cost, and if Rolf Ronning has substantiated the case, then the PB needs to decide whether the applicant is expected to shoulder the entire financial burden if they find in his favor, and (3) if the PB wants to hold the line on this, he can assure the PB that by law it is permitted, but if it is in this instance of whether it is reasonable—it would be decided by a Supreme Court Judge.

Atty. O'Connor said that he understands Counsel saying that regulations are permitted for utilities, but he still doesn't think the Bolton PB has the authority to regulate or zone municipal property and a county right-of-way is municipal property. Counsel replied by saying that is a valuable argument and while he certainly knows what a county right-of-way is, there is a section that purports to indicate that electric and communication distribution wires, but it doesn't say on private land—just in the scenic corridor. Atty. O'Connor said that the black letter law is that you cannot zone municipal property. Counsel said (1) he doesn't disagree with Atty. O'Connor's argument that the Town of Bolton is not in a strong position to regulate property owned by the County of Warren in so far as zoning codes are concerned, (2) then again, in so far as this scenic corridor code section tends to regulate power it would be placed upon that and may be a defining argument which they would certainly find out in a court of law where that goes and (3) he does not dispute Atty. O'Connor's rendition of that the Town of Bolton is not in the position to zone county property.

H. Koster said that the Town of Bolton tries to stay out of the courts with the decisions it makes, but now they are jumping in with both feet. Counsel replied by saying (1) he thinks the dilemma the PB is faced with here is that if it allows Rolf Ronning the privilege to put it up because he has made the case so to speak, that then of course dictates, (2) the PB often times is concerned with if it has sent a precedent and he often tells the PB it would be decided on a case-by-case basis and (3) he thinks in this particular instance, the PB has set the precedent and the PB would reasonably expect that they fall in line with the rest of however the power lines go on CR11, so the PB has a scenic corridor that has holes. H. Koster said that he can't see getting into a long, expensive battle in the courts. There will be repercussions to that battle no matter which way it goes.

Counsel asked about the result of the Town of Queensbury making this attempt along the main street and Atty. O'Connor responded by saying (1) yes, the Town of Queensbury tried to force Niagara Mohawk in the redesign of the Exit 18 corridor to go underground and Niagara Mohawk said no, they didn't have to, (2) they went to the Public Service Commission and his understanding is that the Public Service Commission said Niagara Mohawk didn't have to and (3) in that case Niagara Mohawk said they would put it in if

somebody else paid for it and he believes the state and possibly the county and town put in some money.

Counsel said that what the PB is expected to do here is render a fair decision. H. Koster said that (1) he sees it as a long, drawn-out and extremely expensive proposition for the PB to proceed with this and (2) the PB doesn't want to set a precedent with this. Atty. O'Connor asked if it would be simple to say that the PB is not going to challenge installation overhead for this section of road, although reserve the PB's right for any other portion or any other place in town if that is applicable. Counsel replied by saying said that those are certainly the words that work, but he certainly wants to also emphasize that the next applicant that comes by will all be held to the same standards. Atty. O'Connor said that he is told that further down the road there is more area to work with and H. Koster said that National Grid could go in the shoulder of the road. Atty. O'Connor said he does not know National Grid's restrictions. Rolf Ronning said that he was told there is some state law that you have to be on the outside of the guardrail on a county road.

**Motion by** Sue Wilson to approve the installation of the power pole lines along County Rte 11 as shown on work request 40-06-1768846. The Planning Board reserves the right to review any proposals in the future along County Rte 11. **Seconded by** Donald Roessler. John Gaddy **Opposed. All others in favor. Motion Carried.**

*Note: Atty. Jonathan Lapper, representing Thomas & Marylou McGurl, agreed to have Agenda Items #11 and #12 heard together.*

**11) SD05-25 MCGURL, THOMAS.** Represented by Attys. Jonathan Lapper & Stefanie DiLallo Bitter of Barlett, Pontiff, Stewart & Rhodes, PC, and Matt Steves of VanDusen & Steves Land Surveyors. Seeks 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. Sketch Plan Review. Major Subdivision. Subject to SEQR. This item was tabled at the March 2006 pending additional information.

**12) SPR06-52 MCGURL, THOMAS & MARYLOU.** Represented by Atty. Jonathan 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, seeks 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.*

Atty. Jonathan Lapper, representing Thomas & Marylou McGurl, gave an overview and said that (1) they received sketch plan approval in October 2006 and (2) they have received Town Engineer Tom Nace's approval.

D. Roessler asked if Lots 2 through 8 still have access to the lake through Lot 1 and Atty. Lapper said yes.

H. Caldwell asked the size of the whole project and Atty. Lapper said that it is 224 acres. H. Caldwell asked for clarification of Lot 1 and Atty. Lapper said that Lot 1 is the existing parcel with the cabins and the wetland parcel. H. Koster asked if the whole beachfront is now part of Lot 1 and Atty. Lapper said yes, and the rest of the lots will have access through one portion of it (the west side) by easement, not ownership and the large building will stay part of the hotel. H. Koster said that the PB wants to know how many feet the lots have access to and Atty. Lapper said that it is shown on S3. H. Koster said that he still doesn't know the size of that area and Atty. Lapper replied by saying that (1) they are still subject to the requirements of 10 feet per house, (2) it was 175 feet, but it will be less than that now, because they lost a lot and (3) there would be seven single-family lots and Lot 1 would be the eighth lot. H. Koster said he would like a delineation shown for the HOA area and Atty. Lapper said that they would do that.

S. Aldrich said that on S2, part of Lot 1 (the lakeshore) is shown as 2.85 acres and on S5 that same parcel is shown as 2.41 acres. Tom Hutchins said that is an error. H. Koster asked what would be done to the cabins shown on S5 and Atty. Lapper said that there are 35 cabins now and they will be reduced to 11 cabins. H. Koster asked if that means it would still be 11 cabins rented out plus 7 lots and Atty. Lapper said yes.

D. Roessler asked how many parts there are to Lot 1 and Atty. Lapper replied by saying (1) there are three parts: the wetland piece that goes up the mountain, the lakeshore piece and the cabins. Tom Hutchins said that the total size of Lot 1 is 224 acres. H. Caldwell said it can't be, because the map shows a density calculation of 226 for the whole project. Atty. Lapper said that they don't have that number broken out on the map.

H. Caldwell asked if Cat Mountain Road is shown and Atty. Lapper said no, it was omitted this time, but they will add it back in.

S. Aldrich said that the PB requested the HOA by-laws and Atty. Lapper said that it was submitted on November 27, 2006. P. Kenyon said it should be in the PB member packets.

H. Koster asked if the nine cabins and two two-story houses will all remain and Atty. Lapper said yes, 11 buildings will remain. H. Koster asked if it is correct that there would be two houses on Lot 1 and Atty. Lapper said yes, 11 buildings, which is less than what is there now. H. Koster asked if 18 people would be sharing the lakefront and Atty. Lapper said yes, but that is less people than the number of lots that access it now with the existing units.

D. Roessler asked if the cabins on Lot 1 will be seasonal rentals and Atty. Lapper said yes. D. Roessler asked if the tennis courts would be for the entire subdivision or for seasonal rentals and Atty. Lapper said the tennis courts would be for seasonal rentals only.

D. Roessler asked if the loop of asphalt would remain and Tom Hutchins said no, that would be removed to get the road through.

S. Aldrich asked if Tom McGurl Jr.'s lot should be considered a lot in the subdivision and Counsel said no, but if it is in regards to density it would need to be considered. P. Kenyon said it was considered for density.

S. Aldrich asked if dock-launching privileges should be added to the HOA and Counsel said that if that if it is a privilege or prohibited, then the answer is yes. Atty. Lapper said it is a privilege and they would add it to the HOA agreement.

**Motion by Donald Roessler to accept the preliminary plat as complete pending additional information as follows:**

1. The location for which the members of the homeowners association will gain access to the shore front is to be delineated on the map.
2. The use of the boat launch is to be incorporated in the Homeowner's Association rules & regulations.
3. A map note stating Cat Mountain Road is subject to the rights of others to be provided.
4. Total acreage for lot 1 to be shown

A public hearing was scheduled for February 15, 2007 at 6:00 pm to be heard as item # 5. **Seconded by Sue Wilson. All in favor. Motion Carried.**

**13) SD06-20 STONYBROOK LAND, LLC. DAVID LIPINSKI.** Represented by Attys. Bruce Lipinski and Stephanie DiLallo Bitter of Bartlett, Pontiff, Stewart and Rhodes PC. Seeks to merge those parcels designated as 107.00-2-8 & 9 and 108.00-1-1, 4, & 6 and the divide into 21 lots. Zone LC45. Property Location: Padanarum Road. Sketch Plan Review. Major Subdivision. Subject to SEQR.

David Lipinski, gave an overview and said that (1) the area is all in the LC45 zone, (2) this is APA jurisdiction as there are many wetlands, (3) he is proposing a 21-lot subdivision (about a 47 acre density), (4) there is about 4 1/2 miles of road frontage which would equate to an average of 1,100 feet of road frontage per lot, (5) he would like to site the 21 lots then have a blanket conservation protective covenant of no further subdivision for the remaining land, (6) some lots are shown configured in an odd way to keep the wetlands contiguous, (7) the lots range in size from 10 acres to 200 acres.

S. Wilson asked how much land would remain untouched and David Lipinski replied by saying that (1) it would be about 940 acres that would have a blanket conservation easement on it, so there would be no further subdivision or development of it, (2) it would probably be used for forestry management purposes and the best forest management practices, which would be long-lasting which would essentially preserve the integrity of the area and (3) there would be no new roads--only driveways.

D. Roessler asked the reasoning for the house location on Lot 8 and David Lipinski replied by saying that he doesn't anticipate all of these as being just single-family residential, but

rather some hunting cabins, so he felt this would be an ideal location in this remote location for that type of situation.

D. Roessler said that it appears the driveway is about over 2,000 feet and David Lipinski said that it would be about 2,400 feet.

David Lipinski said that (1) the wetlands mapped are from the APA's wetlands maps that have been superimposed on to these maps and (2) the light green area is the 100-foot buffer. H. Caldwell asked how the applicant got out of having to subdivide the wetlands and David Lipinski said they did that by creative lot planning and he then approached the PB bench to clarify. David Lipinski said that if you look at the tax map numbers and the acreage it will also be confusing, because they have changed over the years.

H. Caldwell asked if power is going to be brought in and David Lipinski said (1) yes, they will bring it in underground and (2) he always wants to do something as sensitive as possible that is aesthetically pleasing. H. Koster said that the PB is going to need some more information on this project.

S. Wilson asked if this is a project, for which the PB should consider clustering and H. Koster responded by saying that he would prefer to see it as presented, because the area is not good for clustering. David Lipinski said that he believes putting a whole conservation blanket easement is a smart way to go. H. Koster agreed and said that if the applicant is willing to do that and to put power underground then he goes along with it 100%. J. Gaddy asked if the applicant is planning on any timber harvesting and David Lipinski said no, he doesn't, but future lot owners may. H. Caldwell asked what sort of conservation easement the applicant is willing to do and David Lipinski replied by saying that he would prohibit any and all development outside the 2-acre building envelope.

From the public, Ron Conover, said (1) he disagrees—the whole idea of clustering is to increase the intensity of the development, (2) density and intensity are two separate ratios, (3) off the cuff, he would prefer to see 20 some-odd units on 60 acres and all the balance of 900 acres and give it to the Nature Conservancy forever, (5) the Bolton code encourages clustering, (6) the tools the PB has in the code should be exercised--that is why they are in there and (7) the environmental impact statement in the end is the PB's if they are the lead agency--there is ownership there.

**Motion by** Donald Roessler to table the application pending additional information as required in Section 150-23 A & B. **Seconded by** Sandi Aldrich. **All in favor. Motion Carried.**

Meeting adjourned at 11:20 pm.

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