

**Town of Bolton
PLANNING BOARD
MINUTES
Thursday August 21, 2008
6:00 p.m.**

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

Present: Chairman Herb Koster, Henry Caldwell, Sue Wilson, Sandi Aldrich, John Gaddy, Chauncey Mason, Town Counsel Michael Muller and Zoning Administrator Pamela Kenyon.

Absent: Donald Roessler

H. Koster opened the meeting at 6:05 PM.

H. Koster asked if there were any changes or corrections to the July 17, 2008 minutes.

1) S. Wilson stated that she abstained from the vote on the minutes from June 19, 2008 meeting because she was not present at the June 19, 2008 meeting.

Motion by John Gaddy to accept the minutes as corrected. **Seconded by** Sandi Aldrich. **All in Favor. Motion Carried.**

1) SPR08-24 JUMBO REALTY INC. Mark Bernstein. Represented by James Gregoire. Seeks Type II Site Plan Review for a group camp. Specifically to demolish and rebuild 2 bunkhouses and construct a new 38'x 49' bunkhouse. Section 185.00, Block 1, Lot 32, Zones **RCL3**, LC25 & LC45. Property Location: 429 Trout Lake Road known as Camp Walden. Subject to WCPB review. Subject to SEQR.

Mark Bernstein stated that they are seeking to build an additional bunkhouse with the exact design of the two cabins that were approved a year ago which will complete the girls' side cabins. Also as part of the application, they looked at renovating two original cabins but found that they were not in good condition to renovate, so they decided to take them down and rebuild. He stated that they too are the same design as the last two that were approved, however they will not have showers in the cabins because these are for the boys and the boys have a shower house. He stated that the septic plans that go along with them are sized without showers and they have a new submittal for an old shower house to bring back on line as an additional shower house in the future. He stated that they had the NYS Department of Health to the site and they have submitted a letter to them for their input on bringing that back on line. He stated that they should hear something from the DOH in a few weeks and they will be submitting an application to do that using the current septic if acceptable to DOH. If not they would put in an application to put in a new septic system behind it.

John Gaddy stated that the minutes of March 20, 2008 show there was discussion about the DOH signing off on a septic system and asked if that was received. Mark Bernstein replied yes.

Mark Bernstein stated that they submitted stormwater plans for the girls' cabin and just today submitted additional stormwater plans for the 2 rebuilds that the Town Engineer is reviewing.

RESOLUTION:

Motion by Sue Wilson to accept the application as complete, waive a public hearing and grant approval with the following conditions: 1) Exterior lighting must be downward facing and shielded with low wattage bulbs used, and 2) That the stormwater plan is reviewed and approved by the Town Engineer. 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.**

2) SPR08-23 GATES, WALTER. To convert existing garage into a guest cottage/garage, seeks Type II Site Plan Review for an accessory structure greater than 1,500 square feet of floor space. Specifically 1,826 is proposed. One guest cottage presently exists. Section 200.07, Block 1, Lot 14, Zone RM1.3. Property Location: 52 Fish Point Road. Subject to WCPB review. Subject to SEQR. *Note: This application is in conjunction with V08-29 for deficient density.*

Bud Gates stated that he bought this property in 1989 which had a small cottage with a master bedroom, 2 tiny bedrooms and a garage with a sleeping porch. He stated that he tried to renovate the house but it basically fell down and he rebuilt exactly the same. A few years later he took the garage and made it into a guest house and built the existing garage which worked well for many years but after 19 years and an expanding family it is hard to have everyone get together. He stated that his daughter now has a family and spends 4-5 weeks each summer bringing the Lake George Theater Lab to Town. He stated that his son is getting married and is planning a family as well. They have the right amount of bedrooms but they are small and in the wrong place. He stated that they also lack a place to gather the whole family for meals and entertainment. He is proposing to expand the living space in the main house by removing the 2 bedrooms and re-locating them above the space in the existing garage. He stated that he is adding less than a 1,000 sq. ft. and although technically he is adding a guest cottage, he feels that it is more a reconfiguration of space. With regard to impacts, he feels that this will not impact the quality of the lake because there are no new structures or foundations or excavation other than to tie into the existing sewer line. He stated that he had the septic completely re-done a few years ago and had a meeting with Jack Hall and John Wells to review the plans for the septic and feels that it is more than adequate for what they have. He stated that visually it cannot be seen from the lake, the road or from the 2 neighboring properties because of the dense vegetation. He stated that this project solves their space problems in the least impactful way that it can be done.

J. Gaddy stated that he would like to see incorporating stormwater management to this site. He stated that he could do some minor things that will better infiltrate the water into the soil and recommended some drains and the use of gravel along the drip line. Bud

Gates stated that he could do that. J. Gaddy also stated that he would like to see any exterior lighting to be downward facing and shielded. Bud Gates agreed.

S. Aldrich asked if the applicant would have to remove any vegetation. Bud Gates replied that he may have to take a few limbs down but does not think he will need to remove any trees.

RESOLUTION:

Motion by John Gaddy to accept the application as complete, waive a public hearing and grant approval with the following conditions: 1)) Exterior lighting must be downward facing and shielded with low wattage bulbs used, and 2) That stormwater measures will be incorporated into the plan. This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. **Seconded by** Henry Caldwell. **All in Favor. Motion Carried**

3) V08-36 BROOK HILL DEVELOPMENT, INC. Represented by the L.A. Group. In accordance with Section 200-93A (Other regulations applicable to planned unit developments), seeks area variance to relocate Building 200 approximately 25' to the north. Section 157.05, Block 1, Lot 88.21, Zone PUD. Property Location: Fox Run, Lagoon Manor. Subject to WCPB, PB and APA review.

Jeff Anthony, LA Group, stated that this is a planned unit development called Lagoon Manor that was approved in 1987. He stated that they are requesting to amend the PUD which requires a variance from the ZBA as an area variance and they are seeking the PB advisory opinion. He stated that in the year 2000 Building 100 was constructed but was moved about 35 ft uphill from its original approved location under the PUD. He stated that it was moved because the survey was not to spec in that area because there was dense tree cover and they moved it back because of the rock and the topography. This was approved by the APA back in 2000. He stated the building went under construction and the APA always knew it was going to interfere with the location of Building 200 but no action was taken by the APA nor did they come to the Town to relocate the building because there were many issues they were dealing with at that time which included a re-writing of the APA permit which included many amendments and changes and it has delayed any action until now. He stated that the APA requested improved stormwater management which they did in 2006 and it was approved by the DEC. It was for the entire project and it meets current regulations for the Town and DEC. He stated they upgraded the sewer system, retrofitted the water system as well as making minor upgrades including changes to the visual tree covering conditions in terms of filtered views. He stated that the Board has the APA permit 87-292B which moves Building 200 approximately 25 ft away from Building 100. He stated that this site was graded and any trees or rock that needed to be removed was complete when Building 100 was done for economy and convenience. He stated that this site is ready to go and no additional excavating needs to be done. He stated that this also solves a little problem Lagoon Manor has had because when Building 100 was being built there were 2 minor violations; 1) not maintaining the silt fence properly and 2) not restoring the site with grass or

vegetation fast enough. He stated that this amendment will clear those 2 violations up and allows for the project to proceed with changes and modifications to it without any fines because the APA decided that the developer acted in a responsible manner.

With regard to the drawing of September 1, 2000, J. Gaddy asked if the stone wall and soil were removed as indicated. Jeff Anthony replied that was accomplished and done. J. Gaddy asked if they will need to blast at all on this site. Jeff Anthony replied that there will be excavation for a foundation and basement but no rock will need to be removed.

J. Gaddy stated that with all of the improvements that Lagoon Manor has done he asked if the applicant would consider putting downward facing shielded lighting. Jeff Anthony stated that he could make that happen.

RESOLUTION:

Motion by John Gaddy to make a positive recommendation to the ZBA with the condition that all exterior lighting must be downward facing and shielded with low wattage bulbs used. **Seconded by Henry Caldwell. All in Favor. Motion Carried**

4) SD08-03 TEKMITCHOV, VASILIKI. Seeks to divide into two lots that parcel designated as Section 171.15, Block 3, Lot 74, Zone GB5000. Minor Subdivision. Sketch Plan Review. Property Location: 4960 Lakeshore Drive. Subject to SEQR. *Note: This application is in conjunction with V08-32 and was tabled at the July 17, 2008 PB meeting pending additional information.*

Dennis Dickinson stated that since the last presentation they have reviewed the parking and have come back with a plan that will work for this property. He stated that they have moved the property line 2 ft off of the garage and they have received approval from the ZBA for the parking. He stated Lot B (front lot) which has 2 businesses and one apartment above will have 4 parking spaces, 2 in the garage and 2 outside of the garage. Lot A (rear building) which has two apartments will have 3 parking spaces and the condition of approval of the ZBA is that these spaces are made usable.

J. Gaddy asked if the approval was given on the condition that the garage has to be improved so that parking can occur inside. Dennis Dickinson replied that the approval states that the applicant has to do whatever necessary to make these spaces available. He stated that this left this open for discussion to tear down the garage, fix it up or whatever they have to do. S. Aldrich asked if the I-beam will be removed. Dennis Dickinson replied yes, if the garage stays it will be removed.

J. Gaddy asked if there are any provisions for shielding the parking from the neighbors. Dennis Dickinson replied no because there isn't enough room for plantings. He stated that in the last few years the applicant hasn't even needed three parking spaces. S. Aldrich asked if there is a privacy fence going down the north side of the property. Vasiliki Techmitchov replied yes.

H. Koster asked Pam Kenyon if this is a viable plan. Pam Kenyon and Sue Wilson replied that they have visited the site and they feel that this is a viable plan.

RESOLUTION:

Motion by Henry Caldwell to accept the application as complete, waive a public hearing and grant approval with the following condition: 1) That the I-beam extending out from the garage is to be removed. This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. **Seconded by Sandi Aldrich. All in Favor. Motion Carried**

5) SPR08-11 LLC INDIAN POND ESTATES. Represented by Eugene Baker. Seek Type II Site Plan Review to construct a single family dwelling in the LC45 Zone. Section 108.00, Block 1, Lot 4, Zone LC45. Property Location: 882 Padanarum Road. Subject to SEQR.

John Gaddy asked how the power will be brought into this property. Eugene Baker replied that there are 2 property owners along the road that are refusing to sign easements to National Grid so they have looked into alternative power methods such as a generator with a battery back and converting to AC power.

S. Aldrich stated that they have a letter from McPhillips and Fitzgerald about the lot being bigger. Eugene Baker replied that Mr. English is trying to increase the size of his lot but he is having problems with the APA. Pam Kenyon agreed but stated that is not part of the agenda tonight. S. Aldrich stated that she was asking from informational standpoint. Eugene Baker replied that this additional property is part of Rolf Ronning's property and would be going back towards the main road. He stated that the applicant is trying to acquire the additional land for his and his family's personal use and he has no plans to subdivide.

J. Gaddy asked if the house will be located in the existing clearing. Eugene Baker replied yes and they will only have to clear an area for the septic system. J. Gaddy stated that he appreciated that the applicant included downward facing shielded lighting in the application.

RESOLUTION:

Motion by John Gaddy to accept the application as complete, 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 Sandi Aldrich. All in Favor. Motion Carried.**

6) V08-10a TWIN BAY VILLAGE. Tamara Chomiak. Represented by Atty. Matthew Fuller, Matt Steves of VanDusen and Steves, and Daniel Ryan of Vision Engineering. For a proposed 52 unit townhouse project, seeks area variance for 1)

deficient density: 43 acres required, 37.6 acres exists; and 2) in accordance with Section 200-37B(4) Shoreline Regulations, seeks area variance for deficient shore frontage. 645' of shore frontage is required, 122' exists. Section 186.06, Block 1, Lot 14.1 and Section 186.07, Block 1, Lot 7, Zones RM1.3, RL3 and RCH5000. 4804 Lake Shore Drive. Subject to WCPB review. *NOTE: This application is in conjunction with SD07-25 and was tabled at the July 14, 2008 ZBA meeting pending a recommendation from the PB.*

Matt Fuller explained that the changes to the project were based on the ZBA and PB's comments and concerns. He stated that also they have clarified the density question with Pam Kenyon. He stated that they now intend to raze all of the buildings on the site and have removed proposed townhomes from the lakeside. They now only have a small community center with lockers/showers, a beach and play area, tennis court and the pool. He stated that Dan Ryan of Vision Engineering will be further discussing the proposal for the lakeside and will also address the shoreline variance. He stated that there has been an issue with the measurement of the shoreline and it has been done by Matt Steves and is based on the mean high water mark.

Dan Ryan stated that over the past year and even more recently they have been doing site testing and checking to seeing how they can conform to the code. He stated that they are looking for the PB recommendation on 2 aspects; 1) the shoreline variance needed and 2) the deficient density.

With regard to the shoreline, Dan Ryan stated that currently they have an existing motel structure, cabins, restaurant, parking and office space. A large amount of this area is paved for parking and is only 47% permeable. Most of the buildings on site are directly along property lines. The re-development of this site will help mitigate that problem and provide 100% conformance to the setbacks that are required for that zone. With moving the buildings off the property lines they can also incorporate additional landscaping, screening and buffering. He stated that this piece has a dense usage with the motel and cabins and transient use. By demolishing the site they cannot not only reconfigure the area for convenience and use for the townhomes but they can provide additional protection and mitigation to both stormwater and on-site sewage. Currently there is no stormwater mitigation and it either drains towards Lake George or towards Route 9N into a catch basin which then dumps into a storm sewer which then dumps directly into Lake George. With this proposal they will have a better quality treatment to the run-off because they will not only have to meet the Town requirements but also DEC requirements which are often more strict.

Dan Ryan stated that the lakeshore property is primarily going to be used by the new community that will exist on the west side of Route 9N. He stated that they are proposing site amenities that will be common property under the strict control and maintenance of a homeowners association. He stated that they are proposing a pool and small community building, which will have lockers and storage and potential other uses. They feel that this will prevent additional trips back and forth to the townhomes making it safer and providing more flexibility to the homeowners. He stated that they are also looking to offer a tennis court and provide a parking area to help minimize foot traffic

across Route 9N. They are also going to be asking DOT for a cross walk at this location to assist in the safety of the community. He stated that this is also along the lines of Bolton's Comprehensive Plan which encourages residential style living arrangements in close proximity to the other amenities within in the Town and to provide additional pedestrian access.

With regard to stormwater, Dan Ryan stated that they have the opportunity to take a large area that is impervious and provide water quality treatment prior to discharging into Lake George. The proposed plan will increase the site permeability to 53%, but even more importantly is that they can provide treatment to that stormwater. He stated that they are proposing bio-retention filters and small ponds which will help filter and treat the stormwater and it will also reduce the run-off rate from this site to less than pre-development conditions.

Dan Ryan stated that they are providing a very environmentally conscience plan for the east side to protect the lake and will it provide a valuable resource for the people in this townhome community to utilize. He stated that it is well known that public space in this Town is very limited with a couple of public beaches with limited shoreline use. He stated that there are over 2,000 residents using that space and this is an opportunity for the Town to allow future growth without providing more burden on those public facilities.

With regard to the shoreline variance, Dan Ryan stated that by reducing the density and allowing for more buffering and stormwater treatment, they are doing a lot of things to benefit the perceived density and use on this site and in the end provide less overall usage on that shoreline. He stated that currently with the motel and all the associated cabins the capacity for people and transient residents was approximately 360 people. This proposal provides 50 units with an approximate family size of 4 people which will reduce the usage to less than 250 people using that shoreline.

J. Gaddy asked if they will be infiltrating water under the parking lot. Dan Ryan replied that they are proposing bio-retention filters along the sidewalk and in the center of the parking lot which will go into the ground, be filtered and then discharged.

John Gaddy stated with regard to Bolton's Comprehensive Plan, it would seem useful for the applicant to have some sort of pedestrian walkway along Route 9N. Dan Ryan replied that if there were to be a large scale project that would provide connecting sidewalks they would consider incorporating that into the plan. However, he would be concerned to provide a sidewalk that goes no where or is not connected because that provides a safety concern. H. Koster stated that the State is only putting sidewalks in up to Bixby Road. J. Gaddy stated that if they look at the comprehensive plan, a project of this scale could be a way of trying to enhance pedestrian traffic. H. Koster stated that he feels that they are getting ahead of themselves because this is a project that may not happen for 20-30 years or at all. He continued that this would also require them to take out many of the stone walls, which is one of the characteristics of Bolton and 9N and the State is re-establishing these stone walls. Dan Ryan stated that this would also require

the DOT's approval and they may say no because of safety. H. Koster stated that he does not feel that they should be discussing this because it is way beyond the current application.

H. Caldwell asked who has easements to use the beach now. Dan Ryan replied that the property that the motel and the Villa property. H. Caldwell asked how many units are on the Villa property. Matt Fuller stated that currently there are cabins around the Villa that are used by the motel but in the proposal they will be used as guest cottages solely for the family's use. He stated that the Villa house and the 5 surrounding units all have access to the beach. Matt Fuller stated that the lake frontage will be dedicated to the HOA and they will not have any docks for any residents. H. Koster asked what they will do with the docks. Matt Fuller replied that they would be used for canoes, kayaks and potentially an HOA boat. S. Wilson asked how many boats the marina permit allows. Matt Fuller replied 13 boats.

H. Koster asked how they came up with the current usage of 360 people. Matt Fuller replied that is the maximum occupancy allowed for their rentals. H. Koster stated that he does not think they can accommodate 360 people now. Dan Ryan stated that there are 63 units now with 2 double beds and some units that are 2 bedrooms. He stated that their occupancy limit of the facility is 360 people. H. Koster asked if the 5 cabins are included in that calculation. Matt Fuller replied yes. S. Wilson asked who determined that number. Dan Ryan replied that they did the calculation based on the number of beds and number of units which includes the all motel units and cabins. H. Koster stated that he feels that 360 is not a quality number to be using because he doesn't feel they have ever been to that full capacity. Matt Fuller stated that they wanted to use the maximum that could potentially be allowed for the residential unit and the maximum that would be allowed for the hotel. Dan Ryan stated that for the proposal they used a family size of 4 members and with 50 units that is 200 people. He stated that they could have larger families but feels the overall average will amount to less than 200 people using the property. H. Koster stated that they are trying to quantify the 200 people using 122' of shore front. Dan Ryan stated that the Town has 2,000 residents using 375' of beach front. He stated that it is not practical for everyone to use it at the same time and it is accommodating the needs of the community. H. Koster stated that is a Town park and is a lot different than a year round residence. Dan Ryan stated that he agreed but their beach wouldn't be used year round either.

S. Wilson asked what the distance is between the parking area and Route 9N. Dan Ryan replied approximately 40'. S. Wilson stated that she is concerned with the parking area because of the visual impact. Dan Ryan replied that they did provide a buffer along Route 9N for that reason, but their primary reason for putting the parking here is to keep it further from Lake George. S. Aldrich asked if they have developed a planting plan because the change in elevation would require them to provide a substantial planting. Dan Ryan replied that the grade of the property is 10 feet lower than the road and if they plant shrubs 5-6' high it should provide a nice buffer. He stated that they do not have a lot of details for plantings because this is just the beginning and they will look to do that as the project moves along further.

S. Aldrich stated that she does not like the proposal for the lake side especially with all of the foot traffic crossing 9N. She feels that the townhouse community would be better served with the pool and tennis court on the west side of the road. This would also provide more green area down by the lake and provide much more permeability. S. Wilson agreed. Dan Ryan stated that they would take that into consideration.

H. Koster stated that his biggest concern is putting 50 units on 122' of lake front. He stated that they have that in their ordinance for a reason, the applicant isn't just looking for 4 or 5 extra units to share that, but they are asking for an additional 48 units using that area. J. Gaddy agreed. He asked how Pam Kenyon determined this to come up here because he wondered if this would be considered a Class A Regional subdivision. He also asked how units convert to parcels. Pam Kenyon replied that she based the number of units on total acreage in each of the zones. H. Koster stated that he understands that the motel uses this 122' now but they are talking about a total change in usage for the property. Matt Fuller stated that their feeling on it is that is the improvements that they are making to the property. He stated that the use of the property will probably remain the same and will not be used year round. He stated that they are reducing the 63 units being rented by transients will be reduced to 50 units with owners invested in the property. H. Koster stated that they could argue that as part of Bolton's Comprehensive Plan they are trying to keep vacationers in this Town. Matt Fuller asked if there is an impact that they are dealing with are the sense of the number. H. Koster stated that it is an impact on the lake. S. Aldrich agreed and stated that it is a huge overuse. H. Koster stated that it is a private beach and they cannot compare it to the public beaches. Dan Ryan asked how it differs in terms of use. H. Caldwell replied that the ordinance requires 645' and they are requesting 122' which is a very substantial request. H. Koster stated that the Town beaches are set up for the public. He stated that they are not to set precedents on this Board, but they are presenting based on a previous application and stated that their project will be the next one used as an example of what they wish to have. Dan Ryan agreed they would have a lot of people scrutinizing it but if they weigh all of the positive aspects that are being incorporated into the plan he feels that the variance is the only factor. H. Koster stated that they intend to put a fence 4' off of the property line and they still intend to use the whole piece of property. Dan Ryan stated that the fences are different than buildings that are two stories that are 35' tall. Matt Fuller stated that if this is a use issue they will have to address that in the site plan and subdivision. He continued that they have plenty of acreage for the proposed 50 units. H. Koster stated that the acreage doesn't concern them, it is the usage of very deficient shore front.

With regard to Pam Kenyon's notes, J. Gaddy asked how the maximum number of units was determined. Pam Kenyon replied that she determined that 35 units were allowed based on section of the code for multi-family residence. J. Gaddy stated that this suspends the overall density. H. Koster stated that they cannot have all 1 acre lots. J. Gaddy stated that is what is happening and that in the 15 acres of the RL3 is being interpreted differently. Pam Kenyon stated that if they go to Section 200-40 there is a special section that deals with multi-family dwellings and it requires that 1 acre is the

minimum lot size but if they were single family dwellings she would use the 3 acres minimum. Counsel read section 200-40 to the PB. J. Gaddy stated that it overrides the density. H. Koster stated that he doesn't know if he agrees with that interpretation. J. Gaddy agreed and feels that they should discuss this further. Matt Fuller stated that they cannot appeal Pam Kenyon's interpretation now, they have been at this for 10 months and spent thousands of dollars based on a determination that they thought was correct. Dan Ryan agreed and stated that this has been brought up several times and Pam has come up with the same interpretation. Pam Kenyon agreed. H. Koster agreed with Matt Fuller and stated that any argument against Pam Kenyon's interpretations should be brought to the ZBA. Pam Kenyon stated that she understands that it is very confusing and it took numerous discussions to come to this determination. Matt Fuller stated that he feels the appropriate time to challenge this determination has passed. Counsel agreed. J. Gaddy asked if this would be a Class A Regional Subdivision if this is going to have 35 or more residential lots, parcels or sites. Pam Kenyon stated that 44 units are allowed but that includes the Villa property and it could be reduced to 35 depending upon what the applicants decide to do with the Villa. Counsel stated that Regional projects are categorized in the Hamlet as moderate intensity and low intensity. He stated that it certainly is not compatible for small intensity, but he asked Pam Kenyon how many of those 50 units are in the low intensity that maxs out the 35 and Pam Kenyon replied less than 35. H. Koster asked what the maximum density is allowed for what they are asking for. Pam Kenyon stated that she believes that the total allowed including the Villa property is 44 units. She stated that the applicants have to decide what they are going to do with the cabins around the Villa. H. Koster stated that the Villa property was already subdivided off of this property. Pam Kenyon replied that she used the parent parcel concept to determine the amount of units on it to deduct it from the density. She stated that if the applicants keep the 5 cabins around the Villa they will have to reduce the number of units by almost 9. Counsel agreed and stated that the practice and procedure has been that Pam Kenyon always looks back to the parent parcel to see what subdivision history is on what would have been a unified parcel. Pam Kenyon replied that she looks back up to 10 years and this has only been subdivided in the last 2 years. Dan Ryan stated that this would be a good time to determine how they define a unit for the Villa property because the cabins do not have stoves and therefore wouldn't be counted. Counsel stated that normally each parcel is permitted only one guest cottage per principal dwelling. He stated that they are not pre-existing guest cottages, they were part of the motel unit and have been converted from cabins to guest cottages. He stated that they will have to make a determination in defining that. H. Koster stated that they are getting off track and they should be focusing on the variance requests.

S. Aldrich asked if the 625' of lakeshore is necessary to fit the ordinance. P. Kenyon replied yes. S. Aldrich asked if she included the Villa property and the 5 surrounding cabins. Pam Kenyon replied yes but the Villa only has one contractual access to the beach front. S. Aldrich stated that in the application it states that anyone in those 5 guest cottages have access to the lake. H. Koster agreed and stated that is what they have verbally presented. Matt Fuller stated that this is not a rented cabin and it is for family and friends use only. S. Aldrich stated that could be a potential of 30 or more people using the beach. Matt Fuller argued that if they are going to use the maximum number

against them they have to be able to use the maximum number for them as well. They are trying to show the potential maximum use allowed currently and that they are going to be drastically reducing that number in usage with this proposal. He also feels that not all of the residents would be using the property all at the same time, because people that come here on vacation may use the beach some days but will go out and do things as well.

Pam Kenyon asked the applicants what they had planned with the Villa property because they will have to decide before they return to the ZBA. Matt Fuller stated that they could be considered guest cottages and they will conform to whatever needs to be done in that respect. Pam Kenyon stated that they can only have 1 guest cottage per principal building and there are 4 buildings to be dealt with.

H. Koster told Don Russell and Charles McNulty that although this is a not a public hearing he would allow them to make their point briefly and recommended that they take their issues and concerns to the ZBA.

Charles McNulty, owner of The Point Motel, stated that the applicant is claiming that they have 360 possible people using the beach as a motel. However, on their sign that is directed by the DOH, the maximum number of people allowed to use the beach at any one time is 30 people and that the number would be going from 30 up to 250.

Don Russell stated that last year he submitted an application to put in a couple of docks on 650' of lake front, which created all sorts of paperwork and legal issues. He stated that he has numerous letters from an opposing party which expressed their concern on the over development of the shoreline that was consistent with every letter they ever wrote to every agency, and about the adverse affects on the water quality, congestion and environmental resources of Lake George. He stated that he has done various applications over the years and he has never asked for anything like this. Matt Fuller stated that he objected to Don Russell's comments. H. Koster encouraged both Don Russell and Charles McNulty to speak at the public hearing at the ZBA.

Counsel stated that in giving an advisory opinion to the ZBA that they should be considering the same criteria that they use in making their determination. He reviewed and explained the criteria that the ZBA uses. He stated that the ZBA considers all of these criteria and they should base their recommendation based on that. J. Gaddy asked if they are looking at this in terms of Section 200-31 for the site plan review in that it complies with the requirements of the chapter including the dimension requirements in the zoning district. Counsel replied no he feels that this applicant deserves to be judged on the very narrow question of the variances sought.

H. Koster stated that they need to make a recommendation for the area variance on either the amount of building units allowed by the density based upon the applicants' decision on what they are going to do with the Villa or by a specific maximum number. With regard to the shoreline deficiency, they will need a total number of dwelling allowed access to the lake which includes the Villa property. Matt Fuller stated that the applicants

are willing to stipulate that only 1 cabin around the Villa will be used as a guest cottage. S. Wilson asked if they put a number on a recommendation to the ZBA does that put them in a box when it comes to site plan review. Counsel replied no, but the applicant could use that number favorable to their argument. He continued that they should not be worried about site plan review or stormwater because they will have to stand alone for review.

H. Koster asked Dan Ryan to continue with his presentation for the west side. Dan Ryan stated that the existing site has a couple of motel structures and the pool, but it is predominately wooded forest on the hillside. The average grade is about 12.5%. He provided a scale model of how the slope rises and showed how this site might be visible or seen from other parts of the lake and to accurately represent the slope of the site. He stated that they are proposing to demolish the existing motel and pool and provide a dead end road with a cul-de-sac. He stated the road is approximately 1,500' long and they will be providing an entrance location that re-aligns with the existing east side entrance to improve the safety concern. He stated that one of the design philosophies for this side of the parcel is to improve the streetscape as you drive into Town, which is part of Bolton's Comprehensive Plan, and by moving the motel units off of the road and providing buffering along the road will accomplish that. He stated that the proposed road will be held at a 12% grade which complies with the Town ordinance. This will be a private road with private utilities and the HOA will have ownership and maintenance of all facilities including septic, stormwater, water systems and the road itself. They are planning for footprint ownership and the HOA will control the remaining property. They have done many test pits and perc tests on the site and have found good loamy sand which is common to this area. Much of the site has 3-6' of loamy sand area above bedrock and/or hard pan so they have good soils for absorption. He stated that they have broken the job down into 2 aspects with respect to on-site sewage. He stated that because they have some areas on the parcel that have good soils and some that are less suited for on-site infiltration they have proposed a community absorption system which will be located in the area with the best soils. He stated that they also choose this location of the absorption field because it will be out of view from most of the townhome community and not seen from the lake providing some buffering around the adjacent areas. H. Caldwell stated that they are cutting right to the property line of the neighbor, which happens to be his property. He is concerned that there is no green space between his property line and their septic system. Dan Ryan stated that this area had the best soils for the septic system but it is something they can look into and could adjust the location a bit or add additional buffering. He stated that septic system will be broken into two aspects; 1) individual systems which will occur where the soils are best suited and comply with the ordinance with the Town and DOH and 2) a community system which is controlled by DEC through a general permit. He stated that they will be providing municipal water which has been discussed with the Water Department and as the project moves forward they will provide more details on that. He stated that one of their goals is to provide a suburban environment. Bolton's comprehensive plan recommends in-fill of vacant parcels, in particular in the hamlet where you are in close proximity to the Town. Ideally this project will provide enough clearing to get the road and grading in, but feels that because of the height of the existing vegetation it would almost be impossible from a

horizontal perspective to see much of any clearing. He stated that they will have access driveways off of the main road which they hope will provide for the least amount of clearing possible. He stated that they have a plan that shows the proposed clearing or disturbed area, but as they move forward with this project they will continue to seek ways to disturb less area and keep as much green space as possible. He stated that when the project is complete the west side will be 80% permeable.

J. Gaddy asked if they have any thoughts on their lighting plan. Matt Fuller stated that they will have that for the Site Plan Review. Dan Ryan stated that they will be open to a lot of discussion at that point and they will be happy to accommodate a lot of their concerns.

J. Gaddy asked if they thought of clustering the townhomes. Dan Ryan replied yes but from a marketing and design perspective this was better suited to give people privacy. Matt Fuller added that the clustering also created more disturbance of the land.

H. Koster stated that if they eliminate 4 of the guest cottages the number of units allowed is 43 and the applicant is asking for 50, so they need to make a recommendation for 44 to 50 units. He stated that if the applicants go with 43 units they don't have to be before them for any variance for density. He stated the bigger issue is how many units do they want to allow access to the lake front and he wants that to have a number attached to that. J. Gaddy asked if they say yes to 44 units allowed to be built for the density issue are they saying yes to all 44 units on 122' of lakefront. H. Koster stated that they are two separate issues and should be different recommendations. Counsel agreed that they should be separate motions.

RESOLUTION:

Motion by John Gaddy to recommend to the ZBA that the applicant be allowed no more than 44 units which would require no variance for deficient density. **Seconded by** Sandi Aldrich. Henry Caldwell opposed. **All Others in Favor. Motion Carried.**

H. Caldwell stated he opposed because he feels that it is too many units for that property. J. Gaddy agreed. H. Koster stated that is not what is in front of them and they were only to decide to recommend the variance or no variance and they are not approving the 44 units. H. Caldwell asked how many units the applicants can have. H. Koster replied that was a separate issue that will come before this Board at a later date. J. Gaddy stated he was concerned that they would not see this again. Counsel stated that assuming that the ZBA follows their recommendation it is entirely neutral and this applicant will be back here making a presentation consistent with Pam Kenyon's inventory for proper density.

H. Koster stated they have to deal with the shoreline deficiency now. Pam Kenyon stated that the Villa takes up the 122' access and any other additional units will require a variance. H. Koster stated that he needs a recommended number of units allowed access or a recommendation of no variance at all. S. Wilson asked, for example, if they only

allow 5 units to have lake access that wouldn't preclude the applicant from building 43 units. H. Koster stated no, provided they pass site plan review. Matt Fuller stated that they would never be able to enforce who has access to the lake and who doesn't. H. Koster stated that he feels that the people that have access would be paying more for their units and they would certainly enforce it.

H. Caldwell stated that he didn't want the applicant to think that they don't appreciate the fact that they are going to tear down all of those units and really make it a better site with all the improvements but he has a problem with having 50 units on that site. Dan Ryan stated that he appreciates that they have considered all of the positive aspects of the project because they feel that is equally important as anything in the project. H. Caldwell stated that they are negotiating on how substantial this variance is going to be. S. Aldrich stated that she is not comfortable with picking a number of units allowed access. H. Caldwell stated that if they don't pick a number the ZBA will. Counsel stated that if she was not comfortable in defining an actual number she could make a motion of not recommending the variance for the shoreline. J. Gaddy stated he would like to know the benefit in stating an actual number because it may not be enforceable. H. Koster stated that it would be by the homeowners themselves. S. Aldrich agreed. S. Aldrich moved that the PB not recommend any variance with respect to the shoreline deficiency. This motion was not seconded. Counsel recommended that they could make the motion that the applicant to whatever extent that they can achieve their maximum density pursuant to the code be allowed one shoreline access per unit. He stated this motion does not use any numbers and this will leave it open to the PB to still structure how many will have lake access. Matt Fuller stated that he liked that suggestion and upon discussion with his client it is something they could live with ultimately understanding that they will be back for further review. S. Aldrich asked when they get back to subdivision that they could limit the number units accessing the lake. Counsel replied yes. S. Aldrich stated that is not what the ZBA is looking for. S. Wilson asked what would be 25% of what the applicant is asking for. Counsel replied that would be 11 units. H. Caldwell stated that they are still allowing 44 units on the west side which he feels is too much. H. Koster stated that is the maximum number allowed but does not mean that they will approve 44. H. Caldwell stated that if they want to give shoreline access to all the units, which he feels is critical, then they are negotiating how many units and he feels more comfortable with 25 units instead of 44. H. Koster stated that he cannot condition that on the amount of buildings they can build. H. Caldwell asked Counsel if they could do that. Counsel replied that they can and they could provide the applicant with incentives. If they use less than what they are permitted by the code they would be rewarded with more contractual access. Counsel provided the example for every unit taken off of what they are permitted the PB would give the applicant 2 contractual accesses. J. Gaddy suggested that it would be more productive to sit down with the ZBA. H. Koster stated that is not part of the process. S. Wilson stated that she liked Counsel's suggestion to use a formula to grant access. Counsel stated that this negotiation allows the applicant to work different strategies and can provide 100% lake access if they know how to plan their plan and it brings down the density. H. Caldwell stated that would be his objective and feels that it would be very awkward if they had some houses that didn't have lake access. Counsel agreed and stated that he couldn't imagine how code enforcement would implement

enforcement on that. Matt Fuller stated that they wouldn't want to put neighbors into that predicament. H. Caldwell stated that they would like to come up with a formula that gets the number down to a reasonable amount of total units but personally he would rather do a straight number cap on the amount of units and access rights. Counsel recommended that they provide some incentive to the applicant to reduce the total number of units. H. Koster agreed. S. Wilson stated that the formula would also provide that if the applicant decides to build all 44 units no one will have access. Pam Kenyon stated in an effort to assist the PB that she has calculated that 29 single family dwellings would be allowed on this property based on the zoning. H. Caldwell stated that even if they go with this formula this is still a huge variance. Counsel agreed but it may be appropriate and sufficient to alleviate the practical difficulty. S. Wilson stated they would also be getting back on the other side that there would be less development. Counsel agreed and stated that there would be many improvements to the site.

RESOLUTION:

Motion by Sue Wilson to recommend that the ZBA use the formula that starts with 44 units and for every unit deducted from the proposal the applicant gains a lake access right and if there is no reduction of units no variance should be granted for deficient shore frontage. **Seconded by** Henry Caldwell. **All in Favor. Motion Carried.**

Motion by Sue Wilson and **seconded by** John Gaddy to enter into Executive Session at 8:45 PM. **All in Favor. Motion Carried.**

Motion by and **seconded by** to return to regular session and adjourn the meeting at 9:15 PM. **All in Favor. Motion Carried.**

Minutes submitted by Kristen MacEwan